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No. 34] NEW DELHI, AUGUST 15—AUGUST 21, 2004, SATURDAY/SRAVANA 24—SRAVANA 30, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कार्मिक, लोक-शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 9 अगस्त, 2004

का.आ. 2006.—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और आपराधिक रिट याचिका सं. 120/95 में पंजाब और हरियाणा उच्च न्यायालय के आदेशों के अनुसरण में श्री हरजिंदर सिंह उर्फ बिट्टू के लापता होने के संबंध में पुलिस स्टेशन महेश नगर, अम्बाला कैंट में भारतीय दंड संहिता 1860 (1860 का अधिनियम सं. 45) की धारा 364 के अधीन दर्ज प्रथम सूचना रिपोर्ट सं. 10 दिनांक 18-02-1995 और उसी संख्यावार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत उक्त अपराध से संबंधित अथवा संसक्त किसी अन्य अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण पंजाब और हरियाणा राज्य पर करती है।

[सं. 228/51/2004-एवीडी-II]

बी.राज गोपालनायडु, निदेशक

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 9th August, 2004

S.O. 2006.—In exercise of the powers conferred by Sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) and orders of the High Court of Punjab and Haryana in Crl. W. P. No. 120/95, the Central Government hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Punjab and Haryana for investigation of the case FIR No.10 dated 18-2-1995 registered at Police Station Mahesh Nagar, Ambala Cantt. under Section 364 of Indian Penal Code 1860 (Act No. 45 of 1860) regarding missing of Harjinder Singh @ Bittoo and any other offence in relation to or in connection with the said offence committed in the course of the same transaction or arising out of the same facts.

[No. 228/51/2004-AVD-II]

B. RAJAGOPAL NAIDU, Director

## वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 3 अगस्त, 2004

का.आ. 2007.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड. के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-03 के लिए नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/ उपक्रम आयकर नियमावली, 1962 के नियम 2ड. के साथ पठित आयकर अधिनियम 1961 की धारा 10 (23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/ उपक्रम :—

(क) आयकर नियमावली, 1962 के नियम 2ड. के स्पष्टीकरण (ख) में यथा परिभाषित पात्र कारोबार को जारी रखना बंद कर देता है; अथवा

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड. के उप नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड. के उप नियम (6) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

(iii) उद्यम/उपक्रम दिनांक 31 मार्च, 2006 को अथवा इससे पूर्व आयकर अधिनियम, 1961 की धारा 80 झ क (4) (iv) (क) के उपबंधों के अनुसार पैरा (3) के नीचे उल्लिखित परियोजनाओं से विद्युत उत्पादन प्रारंभ करता है और इसके असफल रहने पर अनुमोदन वापिस ले लिया जाएगा।

3. अनुमोदित उद्यम/ उपक्रम है :—

मैसर्स नेशनल थर्मल पावर कॉर्पोरेशन लि., एन टी पी सी भवन, स्कोप काम्प्लैक्स, 7, इंस्टीट्यूशन एरिया, लोदी रोड, नई दिल्ली को नीचे दर्शायी उनकी परियोजनाओं के लिए।

(i) रिहंद सुपर थर्मल पावर प्रोजेक्ट स्टेज-II, डाकखाना बिजपुर, जिला सोनभद्र (उत्तर प्रदेश) की 2×500 मेगावाट क्षमता।

(ii) रामागुंडम सुपर थर्मल पावर प्रोजेक्ट स्टेज-III, डाकखाना ज्योतिनगर, जिला-करीम नगर (आन्ध्र प्रदेश) की 1×500 मेगावाट क्षमता।

[अधिसूचना सं. 207/2004/फा.सं. 205/26/2002आ.क.नि.-II]

निधि सिंह, अवर सचिव (आयकर नि.-II)

## MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 3rd August, 2004

S.O. 2007.— It is notified for general information that the enterprise/ undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the Asstt. Year 2002-03.

2. The approval is subject to the conditions that—

(i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with Rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/undertaking:—

(a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (6) of rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (6) of rule 2E of the Income-tax Rules, 1962.

(iii) the enterprise/undertaking starts generating power from the projects mentioned in para (3) below on or before 31st day of March, 2006 as per provisions of Section 80IA(4)(iv)(a) of the Income -tax Act, 1961 failing which the approval shall be withdrawn.

3. The enterprise/undertaking approved is—

M/s National Thermal Power Corporation Ltd. NTPC Bhavan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi for their projects as under:

(i) Rihand Super Thermal Power Project Stage II, P.O Bijpur, Distt, Sonbhadra (UP) of 2×500 MW capacity.

(ii) Ramagundam Super Thermal Power Project Stage III, P.O. Jyotinagar, Distt. Karimnagar (A.P.) of 1×500MW capacity.

[Notification No. 207/2004/F. No.205/26/2002/ITA-II)]

NIDHI SINGH, Under Secy. (ITA-II)

## युवा कार्यक्रम और खेल मंत्रालय

नई दिल्ली, 4 अगस्त, 2004

का.आ. 2008.—केन्द्रीय सरकार, एतद्द्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10(4)

के अनुसरण में नेहरू युवा केन्द्र संगठन के निम्नलिखित कार्यालय को, जिनके कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

कार्यालय का नाम	राज्य	क्षेत्र
नेहरू युवा केन्द्र, जामनगर	गुजरात	"ख"

[फा. सं. ई-11011/7/2004-हि.ए.]

आर.एन. शर्मा, उप सचिव

# MINISTRY OF YOUTH AFFAIRS AND SPORTS

New Delhi, the 4th August, 2004

S.O. 2008.—In pursuance of rule 10(4) of the Official Language (Use for Official Purposes of the Union) Rule, 1976 the Central Government hereby notifies the following office of Nehru Yuva Kendra Sangthan the Staff whereof have acquired working knowledge of Hindi :—

Office	State	Region
Nehru Yuva Kendra, Jamnagar	Gujarat	"B"

[F.No. E-11011/7/2004-H.U.]

R.N. SHARMA, Dy. Secy.

## कोयला और खान मंत्रालय

(कोयला विभाग)

### शुद्धि-पत्र

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2009.—भारत के राजपत्र, तारीख 29 मई, 2004 के भाग-2, खण्ड-3, उपखण्ड (ii) में पृष्ठ क्रमांक 2535 पर प्रकाशित, भारत सरकार, कोयला मंत्रालय की अधिसूचना का.आ. 1255 तारीख 17 मई, 2004 में :—

पृष्ठ क्रमांक : 2535 पर, अनुसूची में,

पंक्ति-7 "कलेक्टर" के स्थान पर "कलेक्टर" पढ़ें।

पंक्ति-10 "नब्बे दिन के" के स्थान पर "नब्बे दिन के भीतर" पढ़ें।

तालिका में ग्राम का नाम स्तंभ के नीचे,

फा. सं.-1 "दैखल" के स्थान पर "दैखल" पढ़ें।

[फा. सं. 43015/9/2004-पीआरआईडब्ल्यू]

संजय बहादुर, निदेशक

### आदेश

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2010.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (i) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय (कोयला विभाग) की अधिसूचना संख्यांक का. आ. 1381, तारीख 6 मई, 2003 के भारत के

राजपत्र, भाग-II, खंड 3, उपखंड (ii) तारीख 10 मई, 2003 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि (जिन्हें इसमें इसके पश्चात् उक्त भूमि कहा गया है) में या उस पर के अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सा विल्लंगमों से मुक्त होकर आत्यातिक रूप से केन्द्रीय सरकार में निहित हो गए हैं;

और, केन्द्रीय सरकार का समाधान हो गया है, कि सेन्ट्रल कोलफील्ड्स लिमिटेड, रांची (जिसे इसमें इसके पश्चात् सरकारी कम्पनी कहा गया है) ऐसे निबंधनों और शर्तों का, जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना ठीक समझे, अनुपालन करने के लिए रजामंद हैं;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, इस प्रकार निहित भूमि और उस पर सभी अधिकार तारीख 10 मई, 2003 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए उक्त सरकारी कम्पनी में निहित हो जाएंगे, अर्थात् :—

- (1) उक्त कम्पनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिकर ब्याज नुकसानी और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी।
- (2) उक्त सरकारी कम्पनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय उक्त सरकारी कम्पनी वहन करेगी और उसी प्रकार ऐसे विहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत, सभी व्यय भी सरकारी कम्पनी वहन करेगी।
- (3) उक्त सरकारी कम्पनी, केन्द्रीय सरकार और उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, उक्त भूमि में या उस पर जो इस प्रकार निहित अधिकारों के बारे में केन्द्रीय सरकार और उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी।
- (4) उक्त सरकारी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि किसी अन्य व्यक्ति को अंतरण करने की शक्ति नहीं होगी।
- (5) उक्त सरकारी कम्पनी, ऐसे निर्देशों और शर्तों का, जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं, पालन करेगी।

[फा. सं. 43015/23/2000/पीआरआई डब्ल्यू]

संजय बहादुर, निदेशक

**ORDER**

New Delhi, the 12th August, 2004

**S.O. 2010.**— Whereas by the publication of the notification of the Government of India in the Ministry of Coal vide number S.O. 1381 dated the 6th May, 2003 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 10th May, 2003 issued under Sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and all right in or over such lands described in the schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Central Coalfields Limited, Ranchi (hereinafter referred to as the said Government Company), is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the lands and rights so vested shall with effect from the 10th May, 2003, instead of continuing to so vest in the Central Government, shall vest in the said Government Company subject to the following terms and conditions, namely:—

- (1) The said company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act.
- (2) A tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the said Government Company under condition (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the said Government

Company and similarly, all expenditure incurred in respect of all legal proceedings like appeal, etc., for or in connection with the rights in or over the said lands so vested shall also be borne by the said Government Company.

- (3) The said Government Company shall indemnify the Central Government and its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested.
- (4) The said Government Company shall have no power to transfer the said lands or any other person without the previous approval of the Central Government.
- (5) The said Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F.No. 43015/23/2000-PRIW]

SANJAY BAHADUR, Director.

नई दिल्ली, 13 अगस्त, 2004

**का.आ. 2011.**—सार्वजनिक परिसर (अनाधिकृत उपभोक्ता बेदखली) अधिनियम, 1971 (1971 का 40) के खंड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा तत्कालीन इस्पात और खान मंत्रालय (खान विभाग), भारत सरकार की दिनांक 14 दिसम्बर, 1982 की अधिसूचना सं. का.आ. 288 का अधिक्रमण करते हुए केन्द्र सरकार एतद्वारा निम्नलिखित तालिका के कालम (1) में उल्लिखित अधिकारी को, सरकार के राजपत्रित अधिकारी के समकक्ष ओहदे का अधिकारी होने के नाते उक्त अधिनियम के प्रयोजन के लिए सम्पदा अधिकारी नियुक्त करती है और यह भी निदेश देती है कि उक्त अधिकारी प्रदत्त शक्तियों का प्रयोग करेगा तथा उक्त तालिका के कालम (2) में किए गए उल्लेख के अनुरूप सार्वजनिक परिसर के संबंध में उक्त अधिनियम तथा उसके द्वारा सम्पदा अधिकारी को सौंपे गये कार्यों का अपने कार्य क्षेत्र की स्थानीय सीमाओं के अंदर निर्वहन करेगा :—

**तालिका**

अधिकारी का पदनाम	सार्वजनिक परिसर की श्रेणी तथा कार्य क्षेत्र की स्थानीय सीमाएं
(1)	(2)
सहायक प्रबंधक/अथवा उच्चतर ग्रेड का अधिकारी नेशनल एल्युमिनियम कंपनी लि., खान तथा रिफाइनरी कम्प्लेक्स, दामनजोड़ी, ओड़िशा, पिन कोड-763008	जिला कोरापुट (ओड़िशा) में नेशनल एल्युमिनियम कंपनी लि. के स्वामित्व में/पट्टे पर दिया गया परिसर।



(1)

(2)

**एल्यूमिना संयंत्र**

दामनजोड़ी, अम्बागांव, बारानपुट तथा मालिङ्गुरीगुडा गांवों में अधिग्रहीत भूमि।

उत्तर ..... अम्बागांव

दक्षिण ..... नालको बस्ती (सेक्टर-1)

पूर्व ..... मायलपुट गांव

पश्चिम ..... रेल मड तालाब

**बस्ती**

खलपाड़ी, कंटागुड़ा, सिंधीपार, दामनजोड़ी, गदलपाबिली तथा सरगीगुडा गांवों में अधिग्रहीत भूमि।

उत्तर ..... एल्यूमिना संयंत्र

दक्षिण ..... चरनीगुल गांव

पूर्व ..... भेजापुट गांव

पश्चिम ..... रेल लाइन (कोरापुट-रायगढ़)

**रेड मड तालाब**

रेड मड तालाब के 33 बांधों के निर्माण के लिए डुमुरीगुडा, झोड़ीगुडा, देनगाजानिगुडा, चम्पापादार, चोगांव, खोरागुडा तथा सुगुरीगुडा गांवों में अधिग्रहीत भूमि।

उत्तर ..... देनगाजानिगुडा गांव

दक्षिण ..... कोरापुट-रायगढ़ रेल लाइन तथा राख तालाब

पूर्व ..... एल्यूमिना संयंत्र का एंगल स्टेशन तथा बॉक्साइट भंडारण क्षेत्र

पश्चिम ..... चम्पापादार तथा खोरागुडा गांव

**राख तालाब**

सिंधीपार तथा कंटागुडा गांव में अधिग्रहीत भूमि।

उत्तर ..... रेड मड तालाब का बांध-3

दक्षिण ..... कोरापुट-रायगढ़ रेल लाइन

पूर्व ..... पहाड़ियां

पश्चिम ..... खोरागुडा एवं चम्पापादार गांव

**कन्वेयर बेल्ट के साथ मार्ग**

अम्बागांव, कारीडीगुडा तथा अरिपुत्रघाटी गांवों में अधिग्रहीत भूमि।

उत्तर ..... अम्बागांव तथा कारीगुडा गांव

दक्षिण ..... पुत्रघाटी

पूर्व ..... पंचपटमाली बॉक्साइट खान

पश्चिम ..... रेल मड तालाब

**जलशोधन संयंत्र**

उत्तर ..... एल्यूमिना संयंत्र

दक्षिण ..... नालको बस्ती (सेक्टर-1)

पूर्व ..... नालको प्रोजेक्ट कार्यालय

पश्चिम ..... ओवर हैड वाटर टैंक

**स्थायी जल ग्रहण पम्प हाउस**

छागांव में अधिग्रहीत भूमि।

उत्तर ..... कोरापुट-रायगढ़ रेलवे लाइन

दक्षिण ..... कोलाब जलाशय

(1)

(2)

पूर्व ..... बंदागुड़ा गांव

पश्चिम ..... घटागुड़ा गांव तथा राष्ट्रीय राजमार्ग-43

करांडीनाला से बस्ती/संयंत्र तक जल आपूर्ति पाइप लाइन तथा पम्प हाउस से  
एल्यूमिना संयंत्र तक 11 के.बी. ओवरहेड लाइन

छागांव, खलपाड़ी, कन्टागुड़ा तथा सिंधीपार गांवों में अधिग्रहीत भूमि।

उत्तर ..... कोरापुट रायगढ़ रेल लाइन

दक्षिण ..... करांडी नाला

पूर्व ..... बस्ती

पश्चिम ..... घटागुड़ा गांव तथा राष्ट्रीय राजमार्ग-43

झोलागुड़ा में पम्प हाउस तथा झोलागुड़ा से खान तक जल आपूर्ति पाइप लाइन

उत्तर ..... काप्सीपुट गांव

दक्षिण ..... पंचपटमाली बॉक्साइट खान

पूर्व ..... पंचपटमाली बॉक्साइट खान

पश्चिम ..... भीतरगढ़ गांव

जयपुर (जयपोर) से खान तथा रिफाइनरी काम्प्लेक्स, दामनजोड़ी तक, सुनाबेदा ग्रिड  
सब स्टेशन से नालको दामनजोड़ी तक 132 के वी हाई टेंशन लाइन

उत्तर ..... स्टीम तथा बिजली संयंत्र (एल्यूमिना संयंत्र)

दक्षिण ..... एस.वी.एम. तथा नर्सरी के समीप नालको बस्ती

पूर्व ..... सेक्टर-I (नालको बस्ती)

पश्चिम ..... सेक्टर-III (टी एच 2) तथा नालको क्लब के समीप।

एल्यूमिना संयंत्र अहाते से खान तक 33 के.बी. ओवरहेड लाइन

उत्तर ..... उत्तर की तरफ खान तक

दक्षिण ..... एल्यूमिना संयंत्र का 02 क्षेत्र

पूर्व ..... क्षेत्रपार पहाड़ियां

पश्चिम ..... क्षेत्रपार पहाड़ियां

गृहीत रेल प्रणाली

उत्तर ..... रेड मड तालाब

दक्षिण ..... बस्ती (सेक्टर-I)

पूर्व ..... एल्यूमिना संयंत्र

पश्चिम ..... कोरापुट-रायगढ़ रेल लाइन

वाटर टैंक तक पहुंच मार्ग

छाओगांव, खलपाड़ी, कन्टागुड़ा तथा सिंधीपार गांवों में अधिग्रहीत भूमि।

उत्तर ..... कोरापुट-रायगढ़ रेल लाइन

दक्षिण ..... जल आपूर्ति पाइल लाइन

पूर्व ..... नालको बस्ती

पश्चिम ..... जल ग्रहण पम्प हाउस

रेड मड तालाब तक पहुंच मार्ग

उत्तर ..... रेड मड तालाब

दक्षिण ..... बस्ती (सेक्टर-III)

पूर्व ..... कोरापुट-रायगढ़ रेल लाइन

पश्चिम ..... राख तालाब

(1)

(2)

**भेजापुट से राष्ट्रीय राजमार्ग 43 सेमिलिगुडा को पहुँच मार्ग**

चारंगुली, मारिचमल, मानिया, कोकिडीगुडा और लुंगुरी गांवों में अधिग्रहीत भूमि।

उत्तर ..... एल्यूमिना संयंत्र

दक्षिण ..... राष्ट्रीय राजमार्ग 43 (सेमिलि गुडा)

पूर्व ..... मारिचमल तथा मानियागांव

पश्चिम ..... कुम्भारगुडा, कोकिडीगुडा तथा वेहेरगुडा गांव।

**खान तक पहुँच मार्ग**

अम्बागांव, अरिपुत्रघाटी तथा करीडीगुडा गांवों में अधिग्रहीत भूमि।

उत्तर ..... झाडीगुडा गांव, करीडीगुडा तथा माथलपुट से काकरीगुमा तक सड़क

दक्षिण ..... अरिपुत्रघाटी तथा अनलावाडी पुनर्वास कालोनी

पूर्व ..... पंचपटमाली बॉक्साइट खान

पश्चिम ..... माथलपुट हाई स्कूल

**खान पट्टा क्षेत्र**

पंचपटमाली पहाड़ी के केन्द्रीय खंड में बॉक्साइट खनन के लिए खनिज रियायत नियमों के अंतर्गत 732 हेक्टेयर भूमि के लिए अधिग्रहीत भूतलीय अधिकार।

उत्तर ..... आरक्षित वन

दक्षिण ..... आरक्षित वन

पूर्व ..... आरक्षित वन

पश्चिम ..... आरक्षित वन

[फा. सं. 11(54)2001/धातु-1]

हेम पांडे, संयुक्त सचिव

New Delhi, the 13th August, 2004

**S.O. 2011.**— In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Un-authorised Occupants) Act, 1971 (40 of 1971), and in supersession of the Notification of the Government of India in the then Ministry of Steel and Mines, (Department of Mines), No. S.O. 288 dated 14th December, 1982 the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being Officers equivalent to the rank of Gazetted Officer of Government, to be Estate Officer for the purposes of the said Act, and further directs that the said Officer shall exercise the powers conferred, and perform the duties imposed, on the Estate Officer by or under the said Act, within the local limits of his jurisdiction. In respect of the public premises specified in the corresponding entry in column (2) of the said Table :

**TABLE**

Designation of the Officer	Categories of Public Premises and local limits of jurisdiction
(1)	(2)
Assistant Manager or Higher grade	Premises owned by or leased to National Aluminium Company Limited in the District of Koraput, Orissa.
National Aluminium Co. Ltd., Mines and Refinery Complex, Damanjodi, Orissa, Pin Code-7630 08	<b>Alumina Plant</b> Lands acquired in Villages. Damanjodi, Ambagaon, Barangput and Malidumuriguda North ..... Ambagaon Village

(1)

(2)

South ..... NALCO Township (Sec. I)

East ..... Mathalput village

West ..... Red Mud Pond.

**Township**

Lands acquired in Villages Khalpadi, Kantaguda, Sindhipar, Damanjodi, Gadipabili and Sargiguda.

North ..... Alumina Plant

South ..... Village Charanguli

East ..... Village Bhejaput

West ..... Rail line (Koraput-Raygada)

**Red Mud Pond**

Lands acquired in Villages Dumuriguda, Jhodiguda, Dengajaniguda, Champapadar, Chogaon, Khoraguda &amp; Suguriguda for construction of 33 Dams of R.M.P.

North ..... Village Dengajaniguda

South ..... Koraput-Rayagada Railway Line &amp; Ash Pond.

East ..... Angle Station and Bauxite Storage area of Alumina Plant.

West ..... Village Champapadar &amp; Kharaguda.

**Ash Pond**

Lands acquired in Villages Sindhipar and Kantaguda

North ..... Dam-3 of Red Mud Pond.

South ..... Koraput-Rayagada Railway Line

East ..... Hills

West ..... Village Champapadar and Khoraguda

**Corridor along conveyor belt**

Lands acquired in Villages Ambagaon, Karidiguda and Ariputrighati.

North ..... Villages Ambagaon and Karidiguda

South ..... Putraghati

East ..... Panchatmali Bauxite Mines

West ..... Red Mud Pond.

**Water Treatment Plant**

North ..... Alumina Plant.

South ..... NALCO Township (Sec. I)

East ..... NALCO Project Officer

West ..... Overhead Water Tank.

**Permanent Water Intake Pump House**

Lands acquired in Villages Chhagaon.

North ..... Koraput-Rayagada Rly. Line

South ..... Kolab Reservoir

East ..... Village Bandhaguda

West ..... Village Ghataguda and NH-43.

**Water Supply pipe line from Kerandi Nalla to Township/Plant & 11 KV overhead line from Pump House to Alumina Plant**

Acquired land in Villages Chhagaon, Khalpadi, Kantaguda &amp; Sindhipar.

(1)

(2)

North ..... Koraput-Rayagada Rly Line  
 South ..... Kerandi Nalla  
 East ..... Township  
 West ..... Village Ghatguda and NH-43.

**Pump House at Jholaguda and W/S pipe lines from Jholaguda to mines.**

North ..... Village Kapsiput  
 South ..... Panchpatmali Bauxite Mines.  
 East ..... Panchpatmali Bauxite Mines.  
 West ..... Village Bhitargarh.

**132 KV High Tension Line Leading from Jaynagar (Jeypore) to M&R Complex, Damanjodi from Sanabeda Grid Sub-Station to NALCO, Damanjodi**

North ..... Steam & Power Plant (Alumina Plant)  
 South ..... NALCO Township near S.V.M. and Nursery  
 East ..... Sector-I (NALCO Township)  
 West ..... Sector-III (Near TH-2 and Nalco Club).

**33 KV Overhead line from Alumina Plant Boundary to Mines**

North ..... Towards North upto Fmines.  
 South ..... 02 Area of Alumina Plant  
 East ..... Hills Cross Country  
 West ..... Hills Cross Country.

**Captive Rail System**

North ..... Red Mud Pond  
 South ..... Township (Sec. III)  
 East ..... Alumina Plant  
 West ..... Koraput-Rayagada Rly. Line.

**Approach Road to Water Intake**

**Lands acquired in Villages ; Chougaon, Khalpadi, Kantaguda & Sindhipar.**

North ..... Koraput-Rayagada Rly-line  
 South ..... Water Supply Pipe line  
 East ..... NALCO Township  
 West ..... Water Intake Pump House.

**Approach Road to R.M.P.**

North ..... Red Mud Pond.  
 South ..... Township (Sec. III)  
 East ..... Koraput-Rayagada Rly. Line  
 West ..... Ash Pond.

**Approach Road from Bhejaput to NH-43, Semiliguda**

**Acquired land in Villages ; Charanguli, Marichmal, Mania, Kokiriguda and Lunguri.**

North ..... Alumina Plant  
 South ..... NH-43 (Semiliguda)  
 East ..... Marichmal and Mania village  
 West ..... Kumbharguda, Kokiriguda and Beherguda villages.

(1)	(2)
	<b>Approach Road to Mines</b> Acquired land in Villages ; Ambagaon, Ariputrathati and Karidiguda North ..... Village Jhadiguda, Karidiguda and Road from Mathalput to Kakriguma. South ..... Ariputrathati and Anlabadi Rehabilitation Colony. East ..... Panchpatmali bauxite Mines. West ..... Mathalput High School.  <b>Mines Lease Area</b> Acquired surface Rights for 732 Hectors Under Mineral Concession Rules for Mining of Bauxite in the Central Block of Phachpatmali Hills. North ..... Reserve Forest. South ..... Reserve Forest. East ..... Reserve Forest. West ..... Reserve Forest.
	[F. No. 11(S4)/2001-Met-I] HEM PANDE, Jt. Secy.

**शहरी विकास और गरीबी उपशमन मंत्रालय**

(शहरी विकास विभाग)

नई दिल्ली, 11 अगस्त, 2004

का.आ. 2012.—यह एतद्वारा अधिसूचित किया जाता है कि राजघाट समाधि समिति अधिनियम, 1951 (1951 का 41) की धारा 4 की उपधारा (1) के खंड (घ) के अनुसार कर्नल (सेवानिवृत्त) सोना राम चौधरी, संसद सदस्य (लोक सभा) तथा श्री. जी.जे. जाविया, संसद सदस्य (लोक सभा) के स्थान पर लोक सभा के निम्नलिखित सदस्यों को राजघाट समाधि समिति के सदस्यों के रूप में निर्वाचित किया गया है :—

- (1) श्री अजय माकन
- (2) श्री हरिलाल माधवजीभाई पटेल

[सं. 25011/7/85-डब्ल्यू-2]

देवेन्द्र कुमार, अवर सचिव

**MINISTRY OF URBAN DEVELOPMENT AND POVERTY ALLEVIATION**

(Department of Urban Development)

New Delhi, the 11th August, 2004

S.O. 2012.— It is hereby notified that the under mentioned Members of the Lok Sabha have been elected as Members of the Rajghat Samadhi Committee in accordance with the Clause (d) of sub-section (I) of Section 4 of the Rajghat Samadhi Committee Act, 1951 (41 of 1951) in place of Col. (Retd.) Sona Ram Choudhary, MP (Lok Sabha) and Shri G.J. Javiya, MP (Lok Sabha) :—

- (1) Shri Ajay Makan
- (2) Shri Harilal Madhavjibhai Patel

[No. 25011/7/85-W2]

DEVINDER KUMAR, Under Secy.

## उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 5 मार्च, 2004

का. आ. 2013.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वीडैक्स इंडिया लिमिटेड, 28/1/ए, आई डी ए, नाचाराम, हैदराबाद-500076 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) वाले "डब्ल्यू आई एल—टी टी" श्रृंखला के अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वीडैक्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/516 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त मॉडल एक विकृतमापी भार सेल आधारित अस्वचालित (टेबल टाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सीलबन्द करने के अतिरिक्त, कपटपूर्ण व्यवहार से मशीन को खोलने से रोकने के लिए भी सीलबन्द की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$  या  $5 \times 10^*$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(60)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

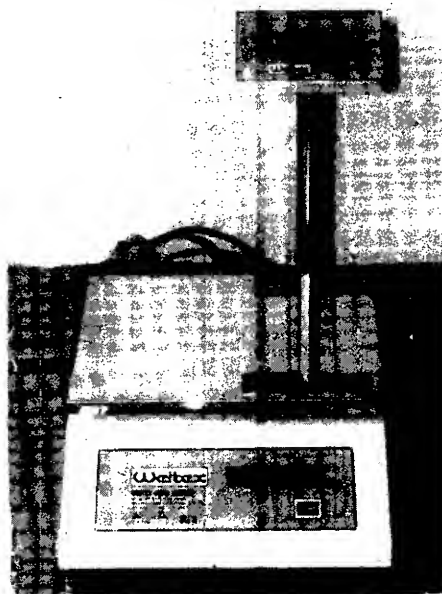


**MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION****(Department of Consumer Affairs)**

New Delhi, the 5th March, 2004

**S.O. 2013.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the non-automatic (Table top type) weighing instrument with digital indication of "WIL-TT" series of medium accuracy (Accuracy class III) and with brand name "WEITEX" (hereinafter referred to as the said model), manufactured by M/s. Weitex India Limited, 28/1/A, I.D.A., Nacharam, Hyderabad-500 076 and which is assigned the approval mark IND/09/2003/516;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Vacuum Fluorescent Display (VFD) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg, 2g, or with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved model has been manufactured.

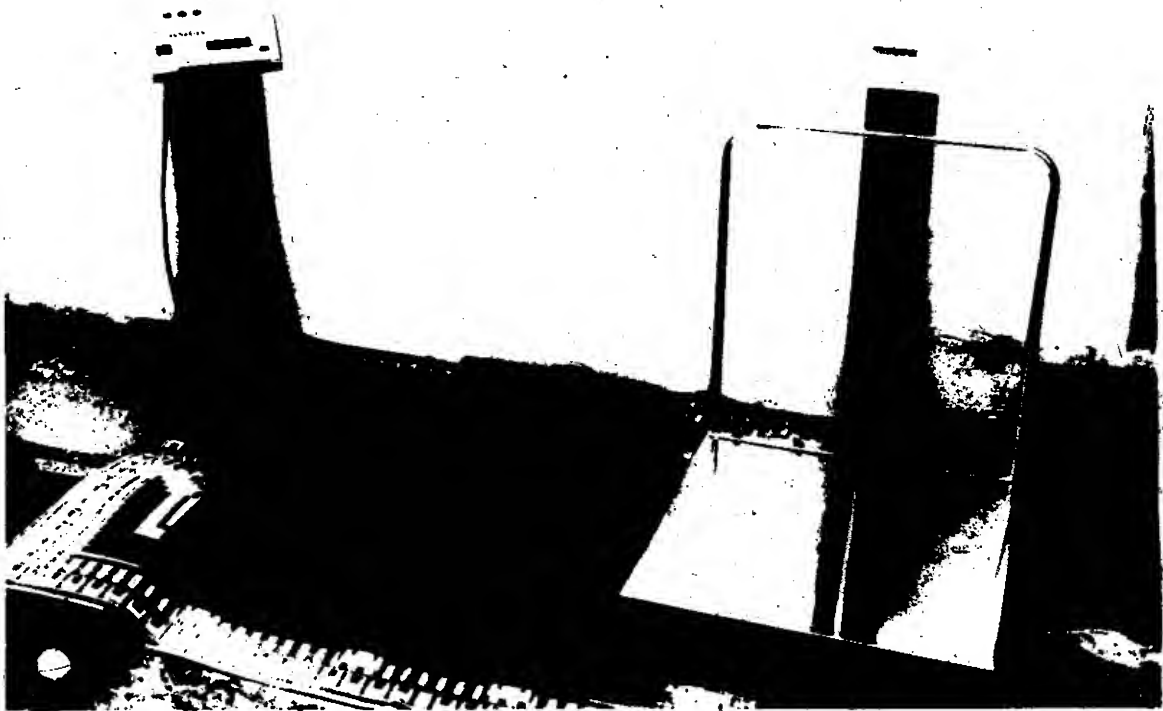
[F. No. WM-21(60)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 5 मार्च, 2004

का. आ. 2014.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वीईटेक्स इंडिया लिमिटेड, 28/1/ए, आई डी ए, नाचाराम, हैदराबाद-500076 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) वाले "डब्ल्यू आई एल—पी एफ" शृंखला के स्वतः सूचक, अस्वचालित, इलेक्ट्रॉनिक, अंकक सूचन सहित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वीईटेक्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/517 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त मॉडल एक विकृतमापी भार सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 500 कि. ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अंतराल 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शतप्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सीलबन्द करने के अतिरिक्त, कपटपूर्ण व्यवहार से मशीन को खोलने से रोकने के लिए भी सीलबंद की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का विनिर्माण किया गया है से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$  या  $5 \times 10^*$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

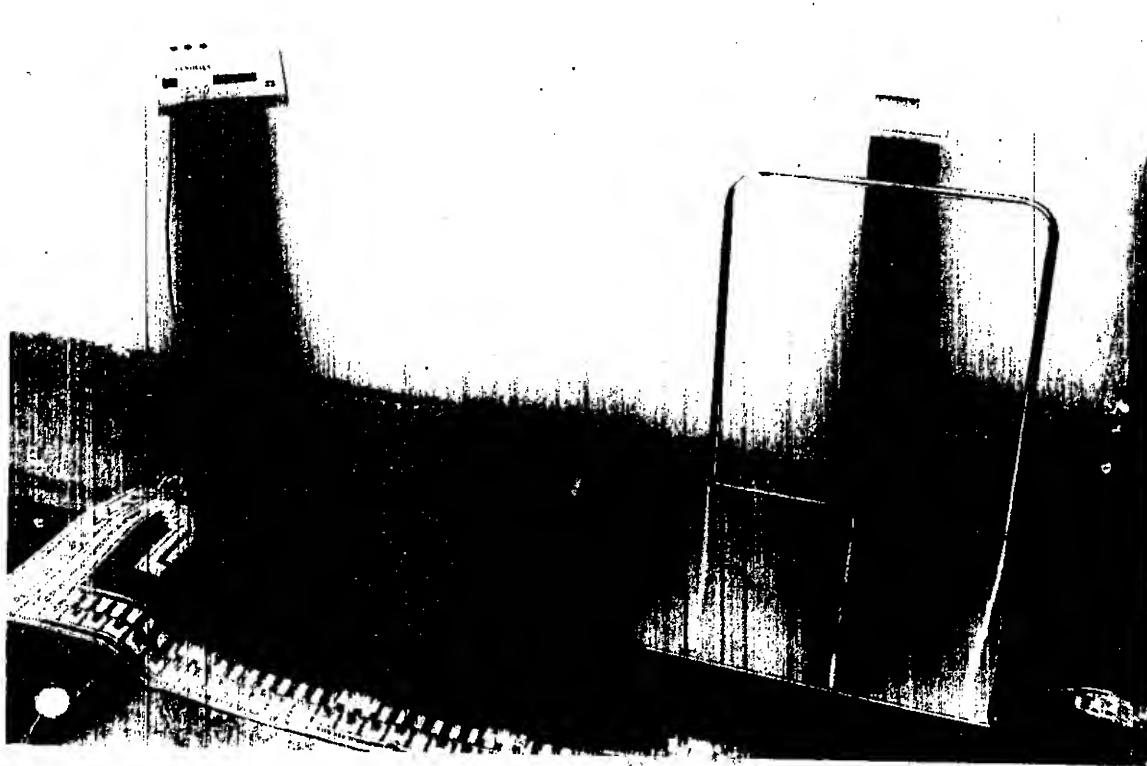
[फा.सं. डब्ल्यू एम-21(60)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 5th March, 2004

**S.O. 2014.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the non-automatic (Platform type) weighing instrument with digital indication of "WIL-PF" series of medium accuracy (Accuracy class III) and with brand name "WEITEX" (hereinafter referred to as the said model), manufactured by M/s. Weitex India Limited, 28/1/A, I.D.A., Nacharam, Hyderabad-500 076 and which is assigned the approval mark IND/09/2003/517;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500kg and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Vacuum Fluorescent Display (VFD) indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 50kg to 1000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(60)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 5 अगस्त, 2004

का. आ. 2015.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स हिक्स थर्मोमीटरस (इंडिया) लि., ए-12 व 13, इंडस्ट्रीयल एस्टेट अलीगढ़-202001 द्वारा विनिर्मित "ए बी-1-हिक्स" श्रृंखला के समतुल्य प्रदर्श सहित सोलिड स्टीम प्रकार के क्लीनिकल थर्मोमीटर के मॉडल का, जिसके ब्राण्ड का नाम "हिक्स" (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/45 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

A34 HICKS

O CM/L9340006 (27) IS:2006/PI-14

उक्त मॉडल 35° सेल्शियस से 42° सेल्शियस तक की रेंज के समतुल्य प्रदर्श सहित एक सोलिड स्टीम प्रकार का शीशे में द्रव (पारा) है तथा इसका सबसे छोटा अन्तराल 0.1° सेल्शियस है।

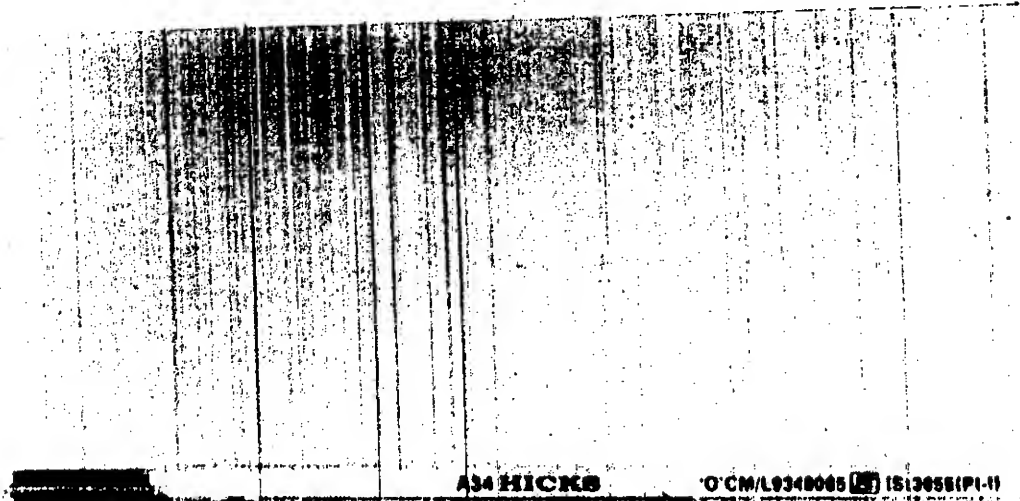
[फा.सं. डब्ल्यू एम-21(166)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 5th August, 2004

**S.O. 2015.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of solid stem type Clinical Thermometer with analogue indication of series 'AB1-HICKS' (herein referred to as the said model) and with brand name 'HICKS' manufactured by M/s Hicks Thermometers (India) Ltd., A-12 & 13, Industrial Estate, Aligarh-202001 and which is assigned the approval mark IND/11/2004/45;



The said model is a solid stem type liquid in glass (mercury) Clinical thermometer with analogue indication of range 35°C to 42°C and the smallest interval is 0.1°C.

[F. No. WM-21(166)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2016.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रो कंट्रोल सिस्टम, आईचालकरनजी द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एमसी एस-टी" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एम सी एस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/14 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त मॉडल विद्युतचुम्बकीय बल प्रतिकर सिद्धान्त पर आधारित अस्वचालित (टेबलटाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 3 कि. ग्रा. और न्यूनतम क्षमता 10 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 200 मि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 100 मि.ग्रा. तक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$  या  $5 \times 10^*$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

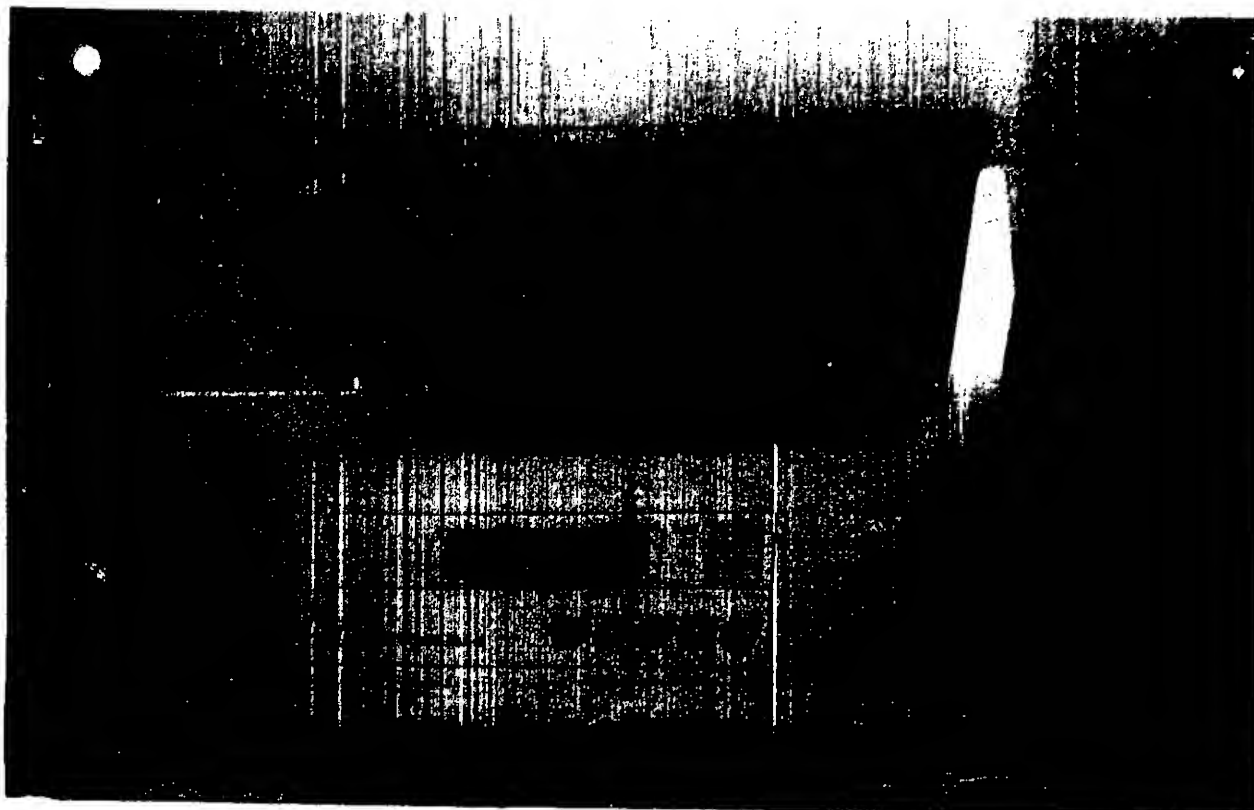
[फा.सं. डब्ल्यू एम-21(296)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 5th August, 2004

**S.O. 2016.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table top type) with digital indication of "MCS-T" series of high accuracy (accuracy class-II) and with brand name "MCS" (herein referred to as the said model), manufactured by M/s. Micro Control Systems, Ichalkaranji and which is assigned the approval mark IND/09/2004/14;



The said model is a electromagnetic force compensation principle based non-automatic weighing instrument (Table top type) with a maximum capacity of 3kg and minimum capacity of 10g. The verification scale interval (e) is 200mg. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 100mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(296)/2003]

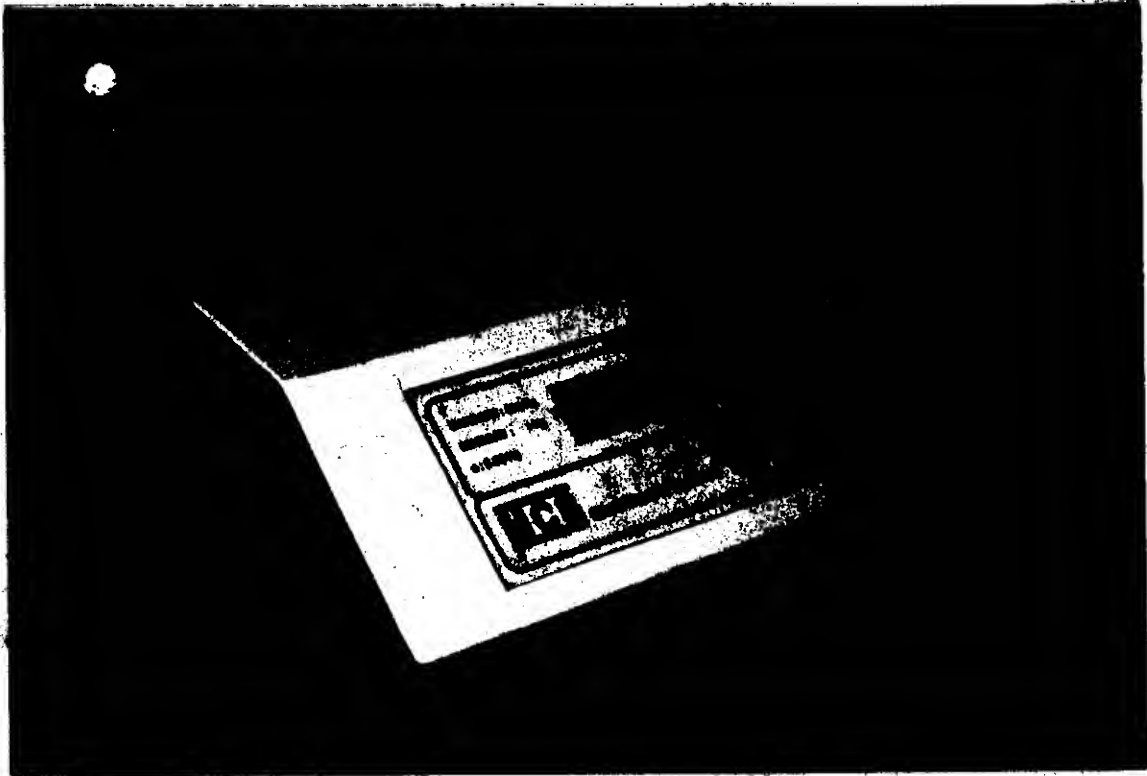
P. A. KRISHNAMOORTHY, Director, Legal of Metrology



नई दिल्ली, 5 अगस्त, 2004

का. आ. 2017.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रो कंट्रोल सिस्टम, आईचालकरणजी द्वारा विनिर्मित उच्च/यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "एम सी एस-पी" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एम सी एस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/15 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विद्युतचुम्बकीय बल प्रतिकर सिद्धान्त पर आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 65 कि.ग्रा. और न्यूनतम क्षमता 250 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. से 300 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^{-3}$ ,  $2 \times 10^{-3}$  या  $5 \times 10^{-3}$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

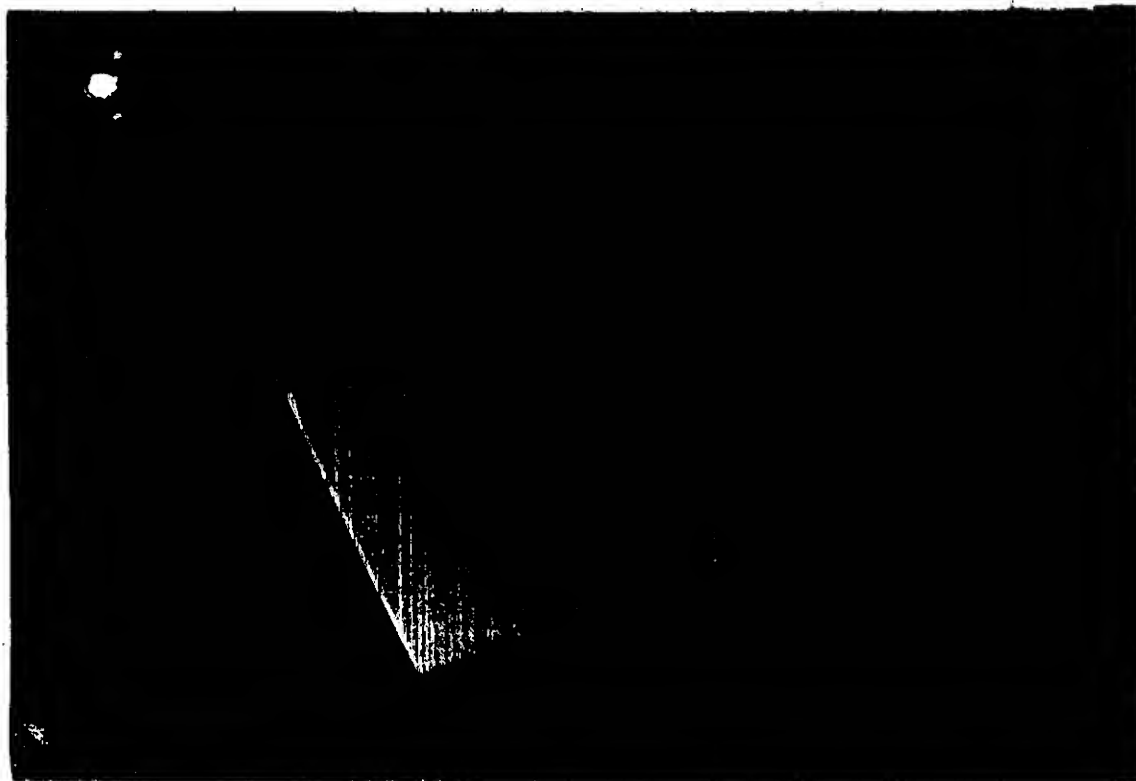
[फा.सं. डब्ल्यू एम-21(296)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 5th August, 2004

**S.O. 2017.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform type) with digital indication of "MCS-P" series of high accuracy (accuracy class-II) and with brand name "MCS" (herein referred to as the said Model), manufactured by M/s. Micro Control Systems, Ichalkaranji and which is assigned the approval mark IND/09/2004/15;



The said Model is a electromagnetic force compensation principle based non-automatic weighing instrument (Platform type) with a maximum capacity of 65kg and minimum capacity of 250g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and upto 300kg with verification scale interval(n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved Model has been manufactured.

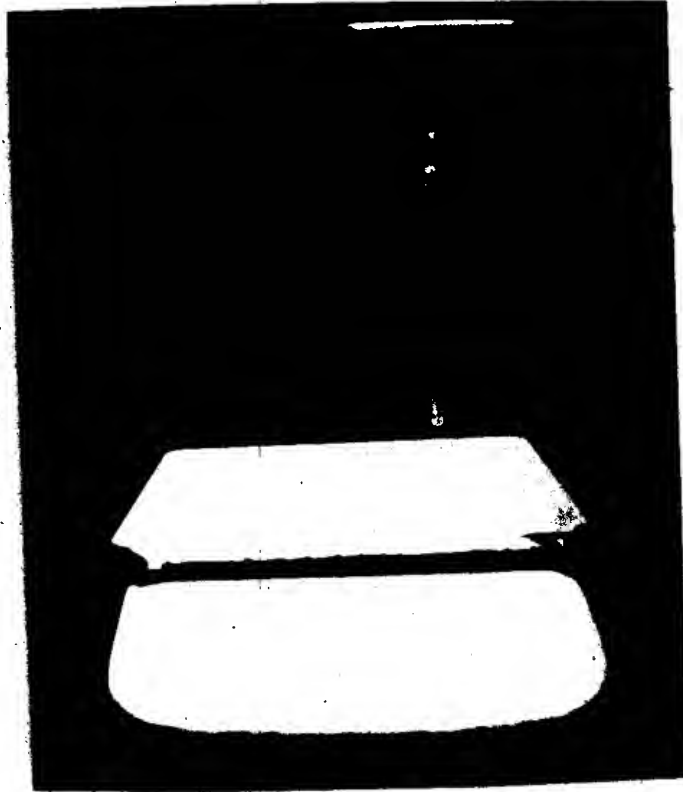
[F. No. WM-21(296)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 5 अगस्त, 2004

**का. आ. 2018.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जय इंस्ट्रुमेंट्स एंड सिस्टम्स प्रा. लि., सी-64, टीटीसी इण्डस्ट्रीयल एरिया, तुरभे, जिला थाणे, नवी मंबई-400705 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "प्रो-विजन" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "जय पान" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/02 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त माडल इलैक्ट्रोचुम्बकीय बल प्रतिकर सिद्धान्त पर आधारित अस्वचालित (टेबलटाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 24 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका स्तन प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित माडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^{-6}$ ,  $2 \times 10^{-6}$  या  $5 \times 10^{-6}$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

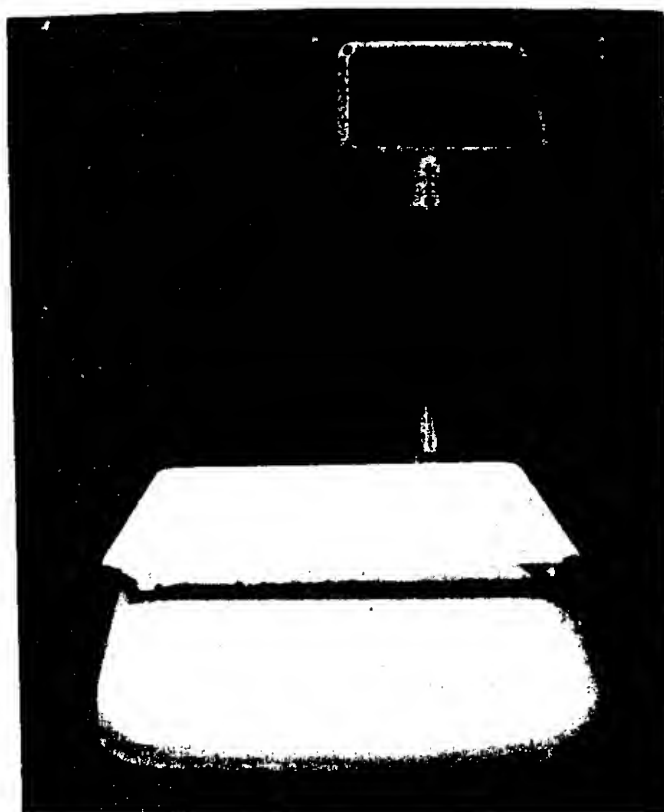
[फा.सं. डब्ल्यू एम-21(245)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 5th August, 2004

**S.O. 2018.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Table top type) weighing instrument with digital indication of "PRO-VISION" series of high accuracy (accuracy class-II) and with brand name "JAY-PAN" (herein referred to as the said model), manufactured by M/s. Jay Instruments and Systems Pvt. Ltd., C-64, TTC Industrial Area, Turbhe, Dist. Thane, Navi Mumbai-400 705 and which is assigned the approval mark IND/09/2004/02;



The said model is a electromagnetic force compensation principle based non-automatic weighing instrument (Table top type) with a maximum capacity of 24 kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved model has been manufactured.

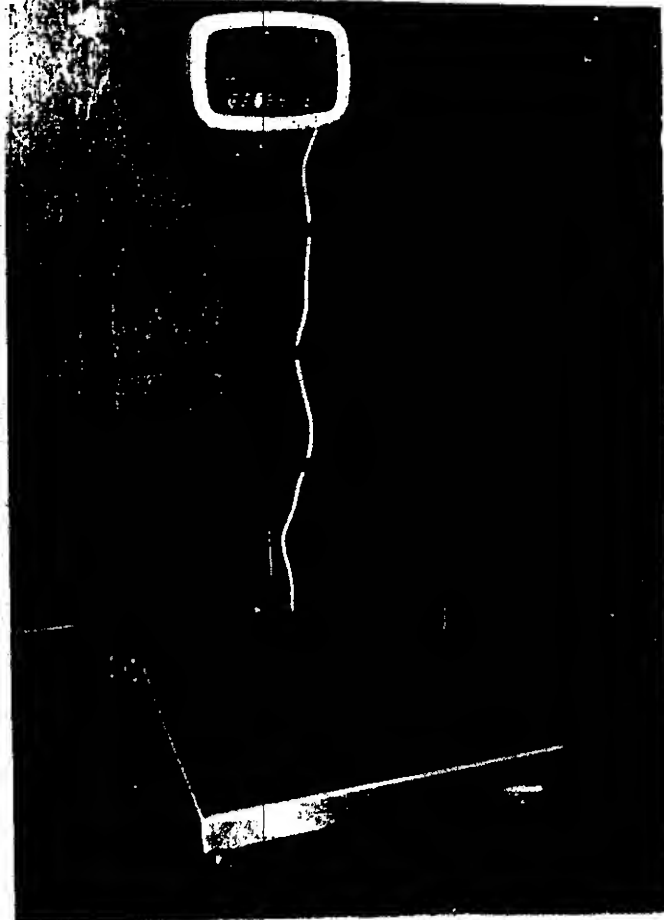
[F. No. WM-21(245)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 5 अगस्त, 2004

**का. आ. 2019.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जय इंस्ट्रुमेंट्स एंड सिस्टम्स प्रा. लि., सी-64, टीटीसी इण्डस्ट्रीयल एरिया, तुरभे, जिला थाणे, नवी मंबई-400705 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "प्रो-विजन" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "जय पान" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/03 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त माडल इलैक्ट्रोचुम्बकीय बल प्रतिकर सिद्धान्त पर आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 3000 कि.ग्रा. और न्यूनतम क्षमता 10 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित माडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$  या  $5 \times 10^*$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

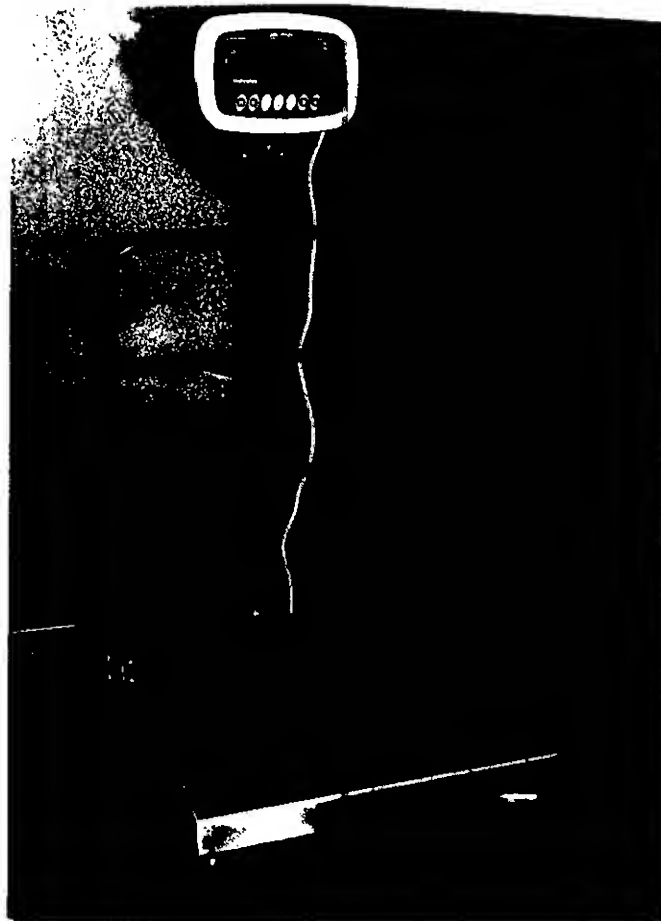
[ फा.सं. डब्ल्यू एम-21(245)/2003 ]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 5th August, 2004

**S.O. 2019.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform type) with digital indication of "HERCULES" series of high accuracy (accuracy class-II) and with brand name "JAY-PAN" (herein referred to as the said model), manufactured by M/s. Jay Instruments and Systems Pvt. Ltd., C-64, TTC Industrial Area, Turbhe, Dist. Thane, Nave Mumbai-400 705 and which is assigned the approval mark IND/09/2004/03;



The said model is a electromagnetic force compensation principle based non-automatic weighing instrument (Platform type) with a maximum capacity of 3000 kg and minimum capacity of 10 kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 5000 kg with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved model has been manufactured.

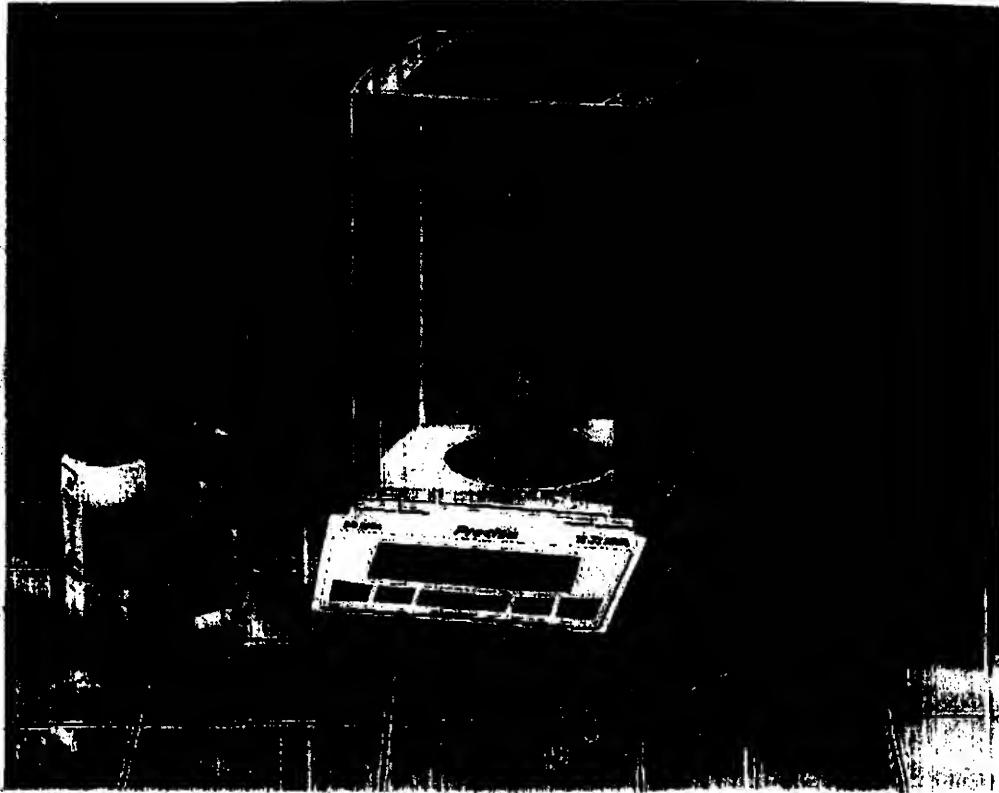
[F. No. WM-21(245)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 5 अगस्त, 2004

**का.आ. 2020.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स अडाइर दत्त एंड कम्पनी (इण्डिया) प्रा. लि. सं. 1/21, आसफअली रोड, नई दिल्ली-110002 द्वारा विनिर्मित विशेष यथार्थता (व्यापकता वर्ग-I) वाले "320" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "प्रेसिस्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/19 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल इलेक्ट्रोचुम्बकीय बल प्रतिकर सिद्धान्त पर आधारित अस्वचालित (टेबलटाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 120 ग्रा. और न्यूनतम क्षमता 100 मि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 1 मि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 50,000 या अधिक तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^6$ ,  $2 \times 10^6$  या  $5 \times 10^6$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(288)/2002]

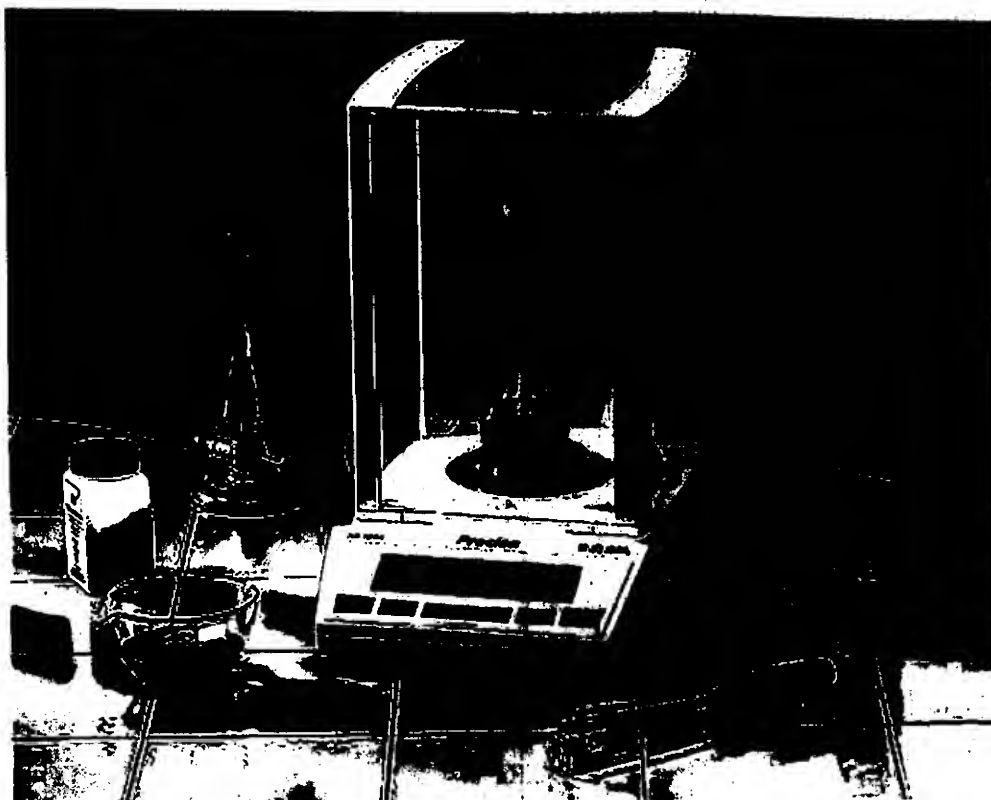
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान



New Delhi, the 5th August, 2004

**S.O. 2020.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Table top type) weighing instrument, with digital indication of “320” series of special accuracy (Accuracy class-I) and with brand name “Precisa” (herein referred to as the said Model), manufactured by M/s. Adair Dutt & Co. (India) Pvt. Ltd., No. 1/21, Asaf Ali Road, New Delhi-110002 and which is assigned the approval mark IND/09/2004/19;



The said Model is a electromagnetic force compensation principle based non-automatic weighing instrument (Table top type) with a maximum capacity of 120 g. and minimum capacity of 100 mg. The verification scale interval (e) is 1 mg. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) display indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg with verification scale interval (n) 50,000 or above for 'e' value of 1 mg or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

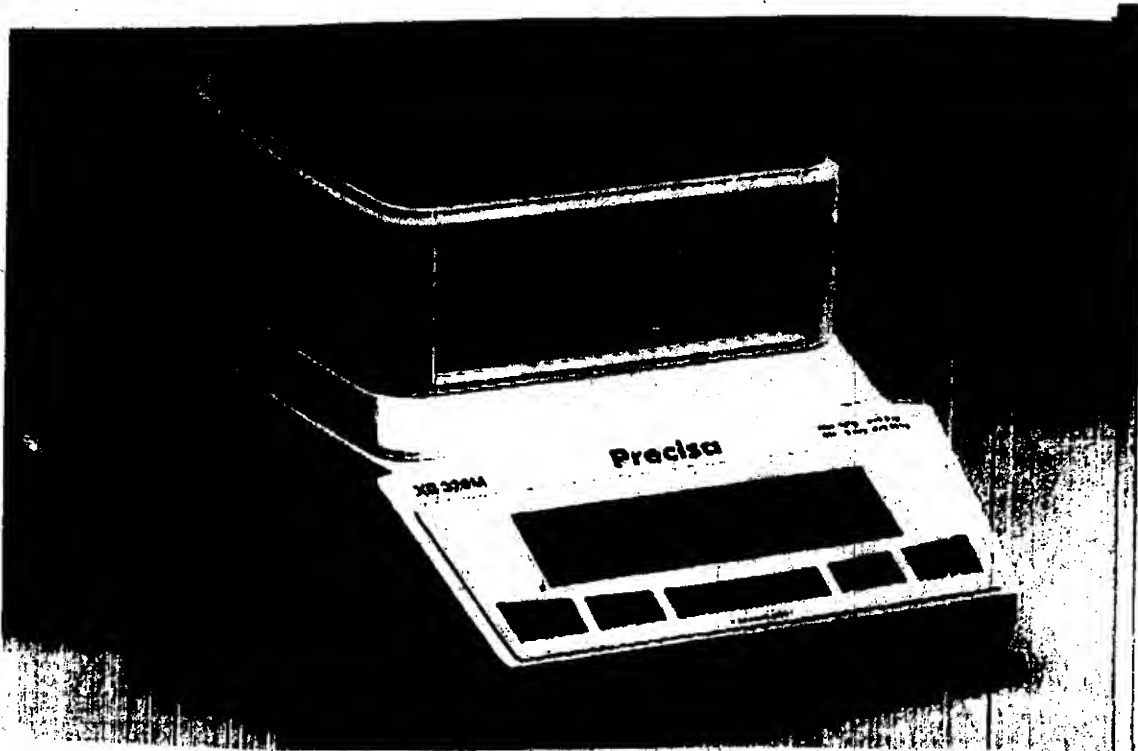
[F. No. WM-21(288)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2021.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुसृत हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अडाइर दत्त एंड कम्पनी (इण्डिया) प्रा.लि., सं. 1/21, आसफअली रोड, नई दिल्ली-110002 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "320" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "प्रेसिसा" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/20 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल इलैक्ट्रोचुम्बकीय बल प्रतिकर सिद्धांत पर आधारित अस्वचालित (टेबलटाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 4200 ग्रा० और न्यूनतम क्षमता 5 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 100 मि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^6$ ,  $2 \times 10^6$  या  $5 \times 10^6$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

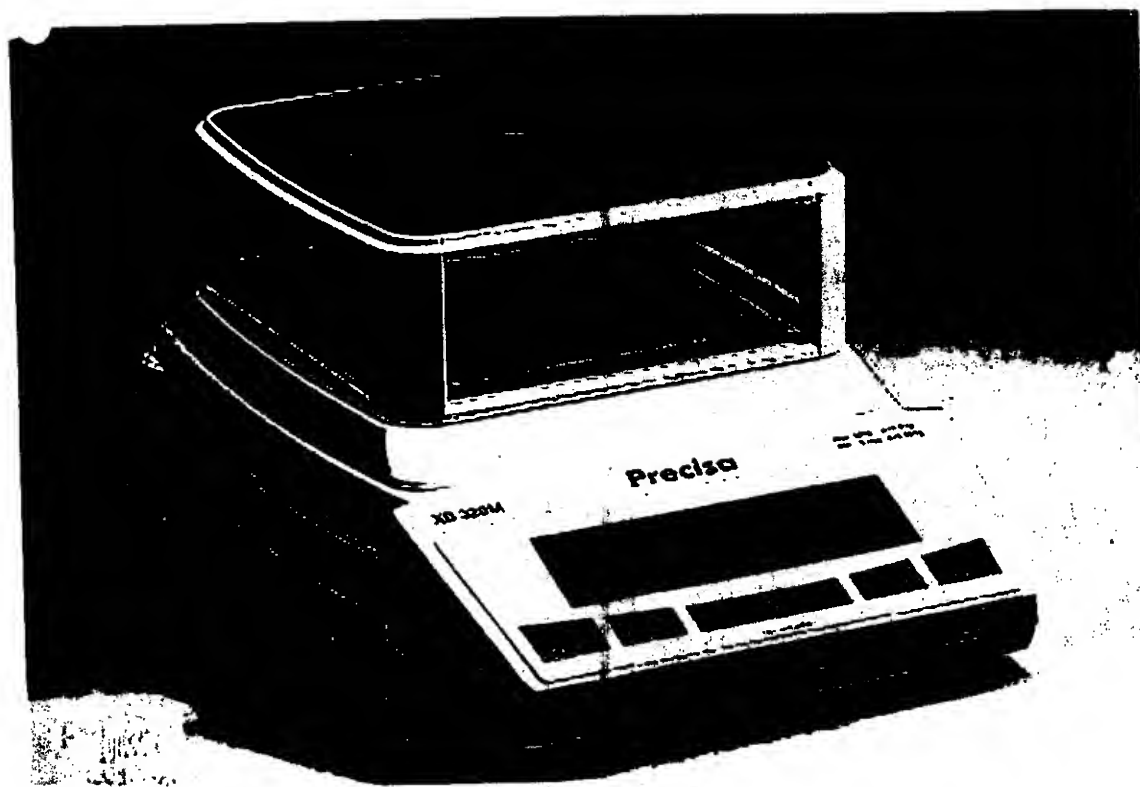
[फा.सं. डब्ल्यू एम-21(288)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 5th August, 2004

S.O. 2021.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Table top type) weighing instrument, with digital indication of “320” series of high accuracy (Accuracy class-II) and with brand name “Precisa” (herein referred to as the said model), manufactured by M/s. Adair Dutt & Co. (India) Pvt. Ltd., No. 1/21, Asaf Ali Road, New Delhi-110002 and which is assigned the approval mark IND/09/2004/20;



The said Model is a electromagnetic force compensation principle based non-automatic weighing instrument (Table top type) with a maximum capacity of 4200 g. and minimum capacity of 5 g. The verification scale interval (e) is 100 g. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) display indicates the weighing result. The instruments operates on 230 V, 50 Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1 mg to 50 mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero manufacture by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

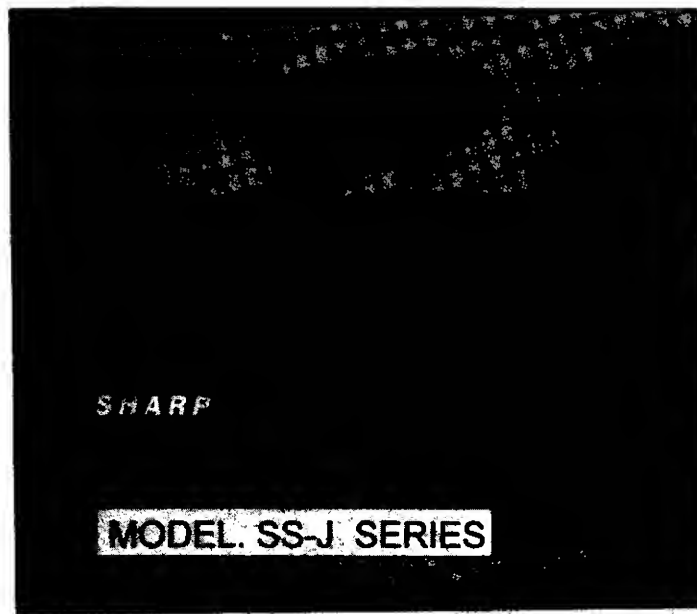
[F. No. WM-21(288)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अगस्त, 2004

का.आ. 2022.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह सम्मधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शार्प सिस्टम, 106-ए, बीम सैट कालोनी, बालकृष्ण पैकिंग के निकट, पोड अनूर मेन रोड, कोयम्बतूर-641023 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-II) वाले “एस एस जे” शृंखला के अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम “शार्प” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/180 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण (टेबलटाप प्रकार) है जो अंकक सूचन सहित लोड सेल के सिद्धान्त पर कार्य करता है। इसकी अधिकतम क्षमता 12 कि. ग्रा. और न्यूनतम क्षमता 50 ग्रा. है। तथा मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) का है। सत्यापन अंतराल मापमान (ई) का मान 1 ग्रा. है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक “ई” मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^3$ ,  $2 \times 10^3$  या  $5 \times 10^3$ , के हैं; जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

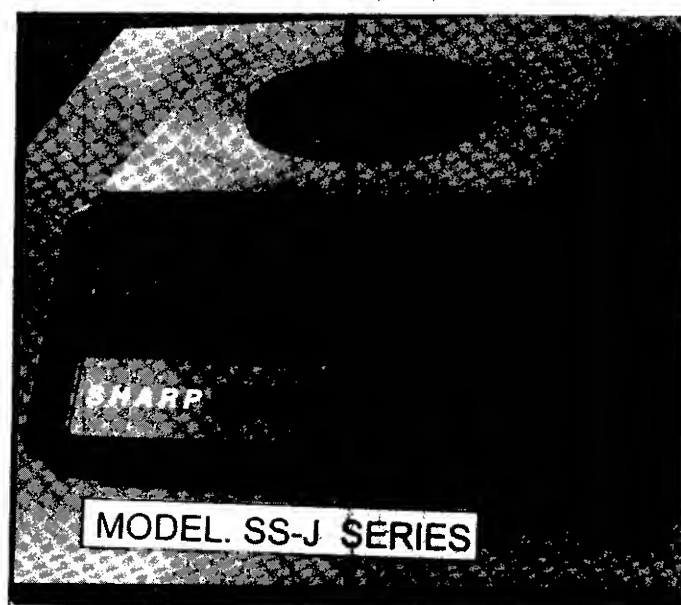
[फा.सं. डब्ल्यू एम-21(115)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th August, 2004

**S.O. 2022** .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of, non-automatic weighing instrument (Table top type) with "SS-J" series belonging to high accuracy (Accuracy class-II) and with brand name "SHARP" (herein referred to as the said model), manufactured by M/s. Sharp System, 106-A, Beam Sait Colony, Nr Balkrishna Packing, Pod Anur Main Road, Coimbatore-641023 and which is assigned the approval mark IND/09/2003/180;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) working on the principle of load cell with digital indication of maximum capacity 12kg, minimum capacity 50 g and belonging to high accuracy class (accuracy class-II). The value of verification scale interval 'e' is 1g. The display unit is of light emitting diode (LED) type. The instruments operates on 230V, 50Hz alternative power supply.

In addition to sealing the stamping plate, sealing is also done to prevent opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of said section, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with the number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufacture by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

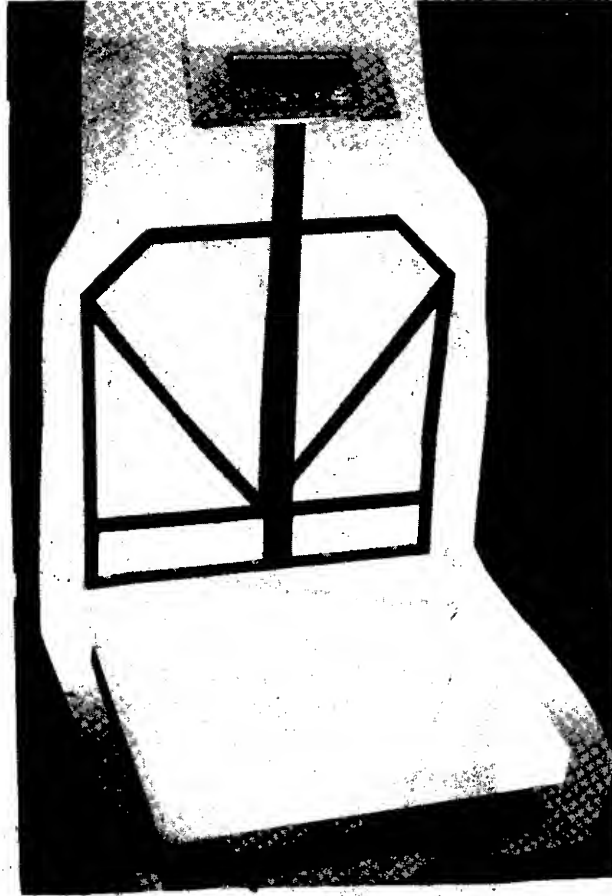
[F. No. WM-21(115)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अगस्त, 2004

**का.आ. 2023.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शार्प सिस्टम, 106-ए, बीम सैट कालोनी, बालकृष्ण पैकिंग के निकट, पोड अनूर मेन रोड, कोयम्बतूर-641023 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एस एस" शृंखला के अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "शार्प" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/182 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण (प्लेटफार्म प्रकार) है जो अंकक सूचन सहित लोड सेल के सिद्धांत पर कार्य करता है। इसकी अधिकतम क्षमता 100 कि. ग्रा. और न्यूनतम क्षमता 400 ग्रा. है। तथा मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) का है। सत्यापन अन्तराल मापमान (ई) का मान 20 ग्रा. है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलेबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. से अधिक और 300 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^3$ ,  $2 \times 10^3$  या  $5 \times 10^3$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

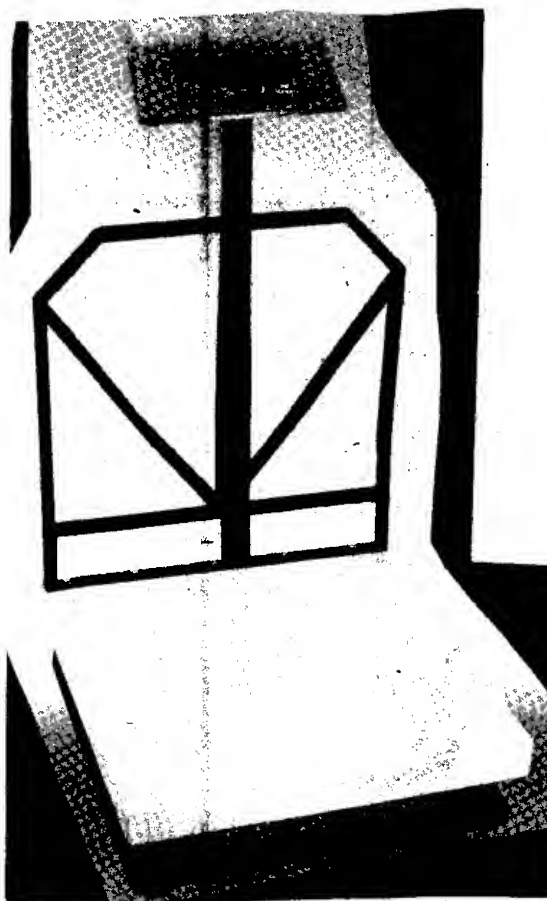
[फा.सं. डब्ल्यू एम-21(115)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th August, 2004

**S.O. 2023 .—**Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of Model of non-automatic weighing instrument (Platform type) with "SS" series belonging to medium accuracy (Accuracy class-III) and with brand name "SHARP" (herein referred to as the said Model), manufactured by M/s Sharp System, 106-A, Beam Sait Colony, Near Balkrishna Packing, Pod Anur Main Road, Coimbatore-641023 and which is assigned the approval mark IND/09/2003/182.



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) working on the principle of load cell with digital indication of maximum capacity 100 kg, minimum capacity 400 g and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval 'e' is 20 g. The display unit is of Light Emitting Diode (LED) type. The instruments operates on 230V, 50Hz alternative power supply.

In addition to sealing the stamping plate, sealing may also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and upto 300 kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(115)/2002]

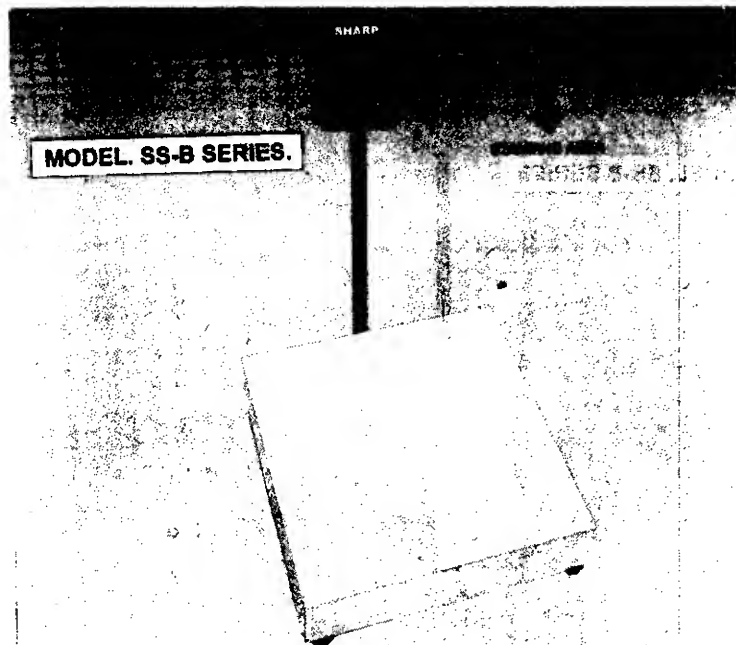
P. A. KRISHNAMOORTHY, Director, Legal Metrology



नई दिल्ली, 11 अगस्त, 2004

**का.आ. 2024 .**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स 'शार्प' सिस्टम, 106-ए, बीम सैट कालोनी, बालकृष्ण पैकिंग के निकट, पोड अनुर मेन रोड, कोयम्बतूर-641023 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एस एस बी" शृंखला के अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "शार्प" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/181 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण (टेबलटाप प्रकार) है जो अंकक सूचन सहित लोड सेल के सिद्धान्त पर कार्य करता है। इसकी अधिकतम क्षमता 30 कि. ग्रा० और न्यूनतम क्षमता 100 ग्रा. है तथा मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) का है। सत्यापन अन्तराल मापमान (ई) का मान 5 ग्रा. है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मान (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10000 तक की रेंज में सत्यापन मान अंतराल सहित 50 कि.ग्रा. तक अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^3$ ,  $2 \times 10^3$  या  $5 \times 10^3$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

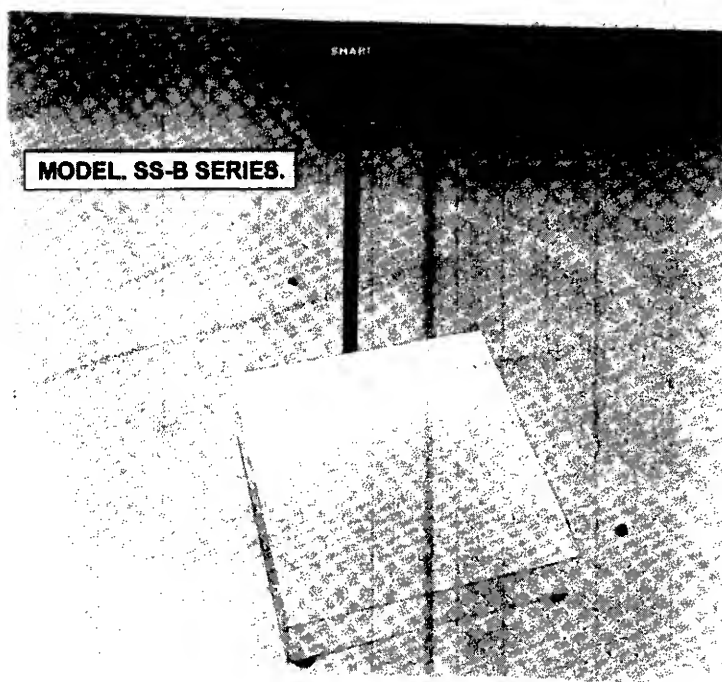
[फा.सं. डब्ल्यू एम-21(115)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th August, 2004

**S.O. 2024.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby issues publishes the certificate of approval of Model of non-automatic weighing instrument (Table top type) with "SS-B" series belonging to medium accuracy (Accuracy class-III) and with brand name "SHARP" (herein referred to as the said Model), manufactured by M/s Sharp System, 106-A, Beam Sait Colony, Nr. Balkrishna Packing, Pod Anur Main Road, Coimbatore-641023 and which is assigned the approval mark IND/09/2003/181.



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) working on the principle of load cell with digital indication of maximum capacity 30kg, minimum capacity 100g and belonging to medium accuracy class (Accuracy class-III). The value of verification scale interval 'e' is 5g. The display unit is of Light Emitting Diode (LED) type. The instruments operates on 230V, 50Hz alternative power supply.

In addition to sealing the stamping plate sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of section 36 of the said section, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with the number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

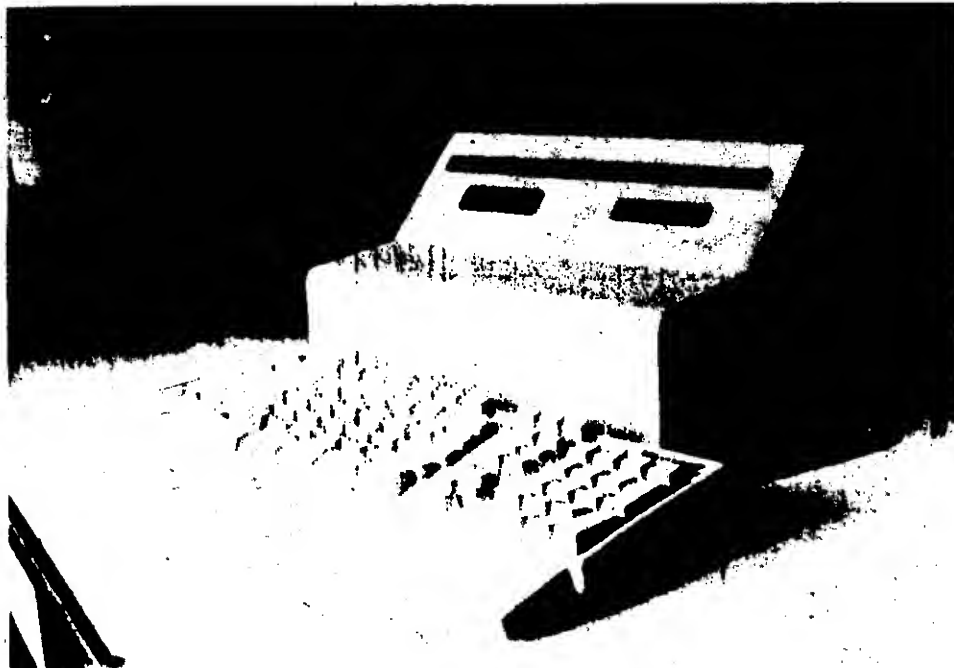
[F. No. WM-21(115)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अगस्त, 2004

का.अ. 2428.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के परन्तु यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई जानकारी देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

आता:, जब, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जय इन्स्ट्रुमेंट्स प्रॉ. लि. सी-64, टोटीसी इंडस्ट्रीयल एरिया, तुरभे, जिला धाणे, नवी मुम्बई-400705 द्वारा विनिर्मित मध्यम यथार्थता (वर्माता वर्ग-III) वाले "डब्ल्यू सीआर" मॉडल के अंकक सूचन सहित अस्वचालित तोलन उपकरण (तोल सेतु के लिए कन्वर्जन किट प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "जय-पाम" है (जिसे इसमें इसके परन्तु उक्त मॉडल कहा गया है) और जिसे अनुमोदन विह अर्द्ध एन डी/09/2004/112 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक अस्वचालित तोलन उपकरण (तोल सेतु के लिए कन्वर्जन किट) है। इसकी अधिकतम क्षमता 30,000 कि० ग्रा० और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत अवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी मॉडल के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^3$ ,  $2 \times 10^3$  या  $5 \times 10^3$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

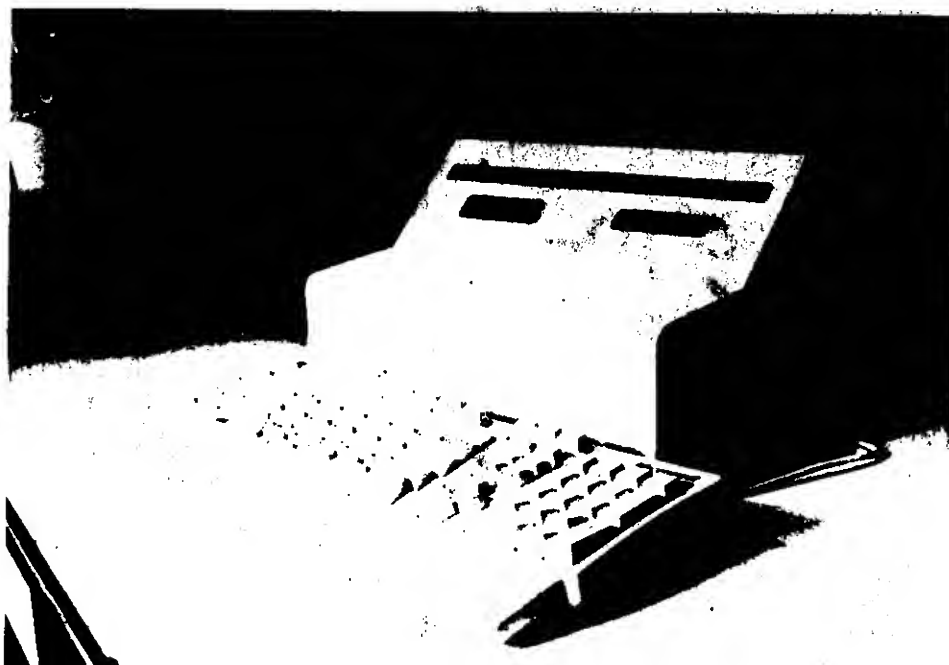
[फा.सं. डब्ल्यू एम-21(208)/2000]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th August, 2004

S.O. 2025.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non-automatic weighing instrument (conversion kit for weighbridge) with digital indication belonging to medium accuracy (Accuracy class-III) of "WBR" series with brand name "JAY PAN" (herein referred to as the said model), manufactured by M/s Jay Instruments and Systems Pvt. Ltd., C-64, TTC Industrial Area Turbhe, District Thane, Navi, Mumbai-400705 and which is assigned the approval mark IND/09/2004/112;



The said Model is a non-automatic weighing instrument (conversion kit for weighbridge) with a maximum capacity of 30,000 kg and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply. The load cell is of strain gauge type.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 5 tonne and upto 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value of  $1 \times 10^4$ ,  $2 \times 10^4$  or  $5 \times 10^4$ , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model have been manufactured.

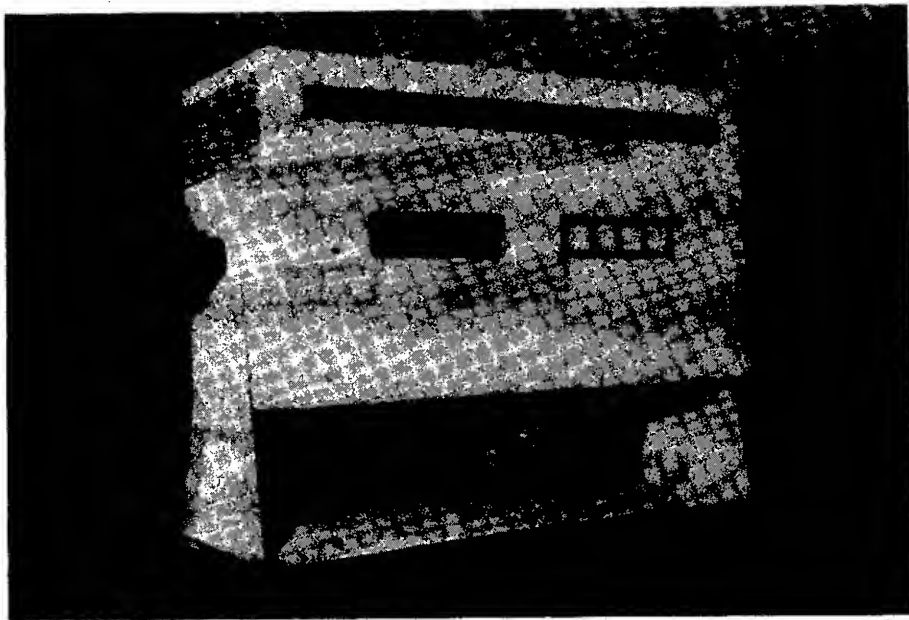
[F. No. WM-21(208)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अगस्त, 2004

का.आ. 2026.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जय इन्स्ट्रुमेंट्स एंड सिस्टम्स प्रा. लि. सी-64, टीटीसी इंडस्ट्रीयल एरिया, तुरभे, जिला थाणे, नवी मुम्बई-400705 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एफ डब्ल्यू" मृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (तोल सेतु के लिए कन्वर्जन किट प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "जय-पान" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/113 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक अस्वचालित तोलन उपकरण (तोल सेतु के लिए कन्वर्जन किट) है। इसकी अधिकतम क्षमता 30,000 कि. ग्रा. और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी मृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^3$ ,  $2 \times 10^3$  या  $5 \times 10^3$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

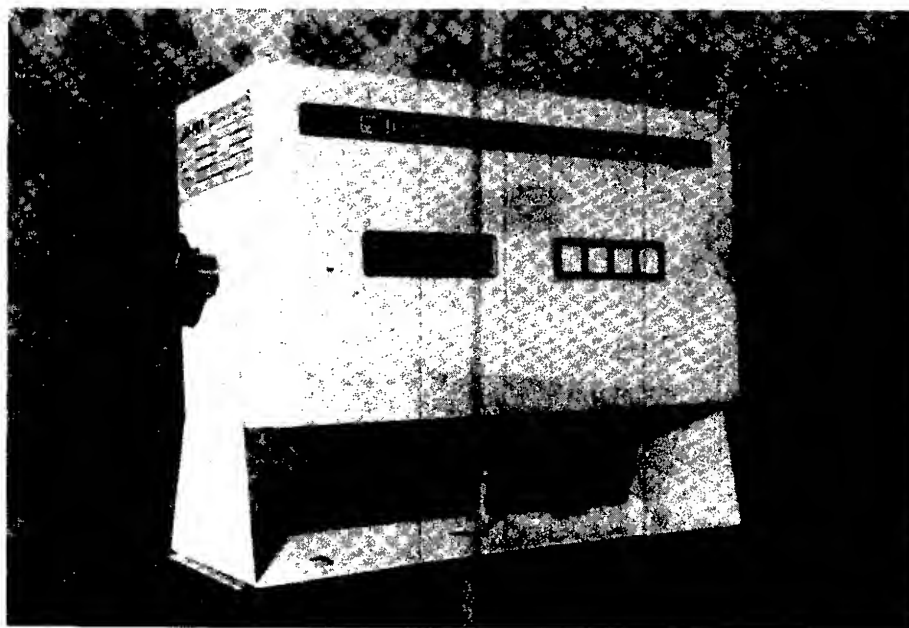
[फा. सं. डब्ल्यू एम-21(208)/2000]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th August, 2004

**S.O. 2026 .—**Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non-automatic weighing instrument (conversion kit for weighbridge) with digital indication belonging to medium accuracy (Accuracy class-III) of "FW" series with brand name "JAY PAN" (herein referred to as the said model), manufactured by M/s Jay Instruments and Systems Pvt. Ltd., C-64, TTC Industrial Area Turbhe, District Thane, Navi, Mumbai-400705 and which is assigned the approval mark IND/09/2004/113;



The said Model is a non-automatic weighing instrument (conversion kit for weighbridge) with a maximum capacity of 30,000 kg and minimum capacity of 100 kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230V, 50Hz alternate current power supply. The load cell is of strain gauge type.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model have been manufactured.

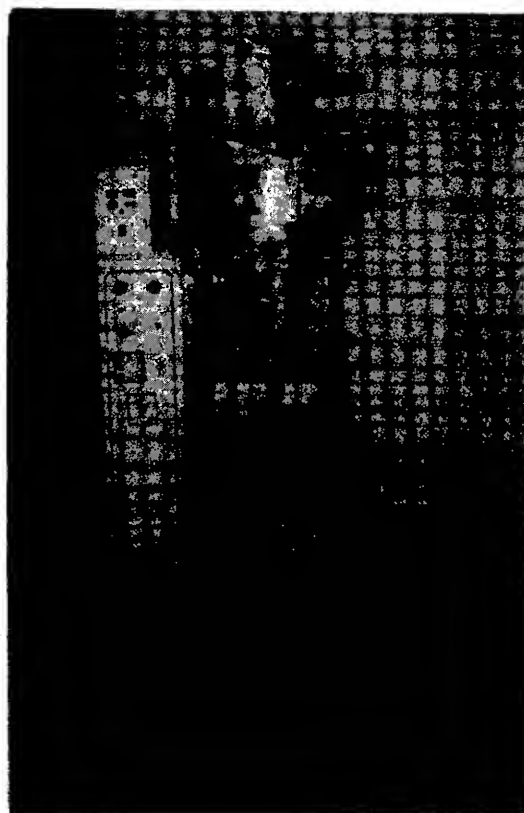
[F. No. WM-21(208)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अगस्त, 2004

**फा.आ. 2027.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सन्नी सोली मशीन्स प्रा.लि. सी-325 एंड 326 सैक्टर-10, नोएडा, गाजियाबाद, उत्तर प्रदेश द्वारा विनिर्मित भरण मशीन (अनुमापी रूप की भरण और सील मशीन) "सन्नी" शृंखला के मॉडल का, जिसके ब्राण्ड का नाम "सन्नी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन बिड आई एन डी/09/2004/24 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक स्वचालित भरण मशीन (अनुमापी प्रकार की भरण और सील मशीन) है। इसकी अधिकतम क्षमता 200 मि. लीटर या समतुल्य भार की है। इसकी अधिकतम भरण दर 50 पैकट प्रति मिनट है। मशीन को शैम्पू, हेअर आयल, खाने का तेल इत्यादि जैसे मुक्ते बहाव वाले उत्पादों को भरने के लिए डिजाइन किया है।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन की स्वचालित भरण मशीन होंगी जो 10 मि.ली. से 200 मि.ली. तक की रेंज में अधिकतम क्षमता वाली हैं।

[फा.सं. डब्ल्यू एम 21(246)/2003]

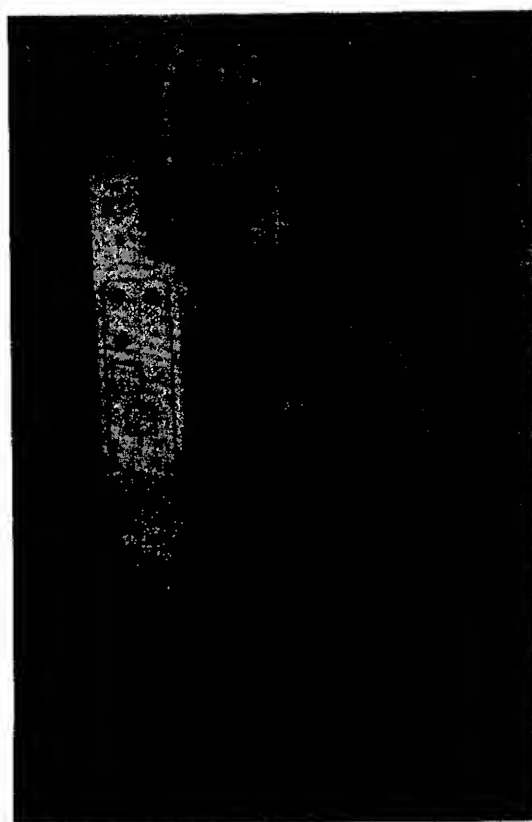
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान



New Delhi, the 11th August, 2004

**S.O. 2027 .—**Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of filling machine Volumetric form fill and seal machine) of "Sunny" series with brand name "Sunny" (hereinafter referred to as the said model), manufactured by M/s Sunny Solly Machines Pvt. Ltd. C-325 & 326, Sector-10, Noida, Gaziabad, Uttar Pradesh and which is assigned the approval mark IND/09/2004/24;



The model is an automatic filling machine (Volumetric form fill and seal machine type). Its maximum capacity is 200 ml or equivalent weight. It has a maximum fill rate of 50 pouches per minute. The machine is designed for filling free flowing liquid products like shampoo, hair oil, edible oil, etc.

Further, in exercise of the power conferred by sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the said model shall also cover the automatic filling machine of similar make, accuracy and performance of the same series with the maximum capacity in the range of 10 ml to 200 ml manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(246)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology



नई दिल्ली, 11 अगस्त, 2004

का.मा. 2028.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सन्नी सोल्स मशीन्स प्रा.लि. सी-325 एंड 326 सैक्टर-10, नोएडा, गाजियाबाद, उत्तरप्रदेश द्वारा विनिर्मित स्वचालित भरण मशीन (ओगर फिल्टर) "सन्नी" शृंखला के मॉडल का, जिसके ब्राण्ड का नाम "सन्नी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/25 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक स्वचालित भरण मशीन (ओगर फिल्टर) है। इसकी अधिकतम क्षमता 250 ग्रा. है। मशीन को दंत मंजन, टालकम पाउडर, पीसे हुए मसाले, चाय, काफी पाउडर इत्यादि जैसे मुक्त बहाव वाले उत्पादों को भरने के लिए डिजाइन किया गया है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत पर कार्य करता है।

स्टाम्पिंग प्लेट मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन खोजे जाने को रोकने के लिए भी सील की जाएगी।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 10 ग्रा. से 250 ग्रा. तक की रेंज में अधिकतम क्षमता वाले हैं।

[फा.सं. डब्ल्यू एम 21(246)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

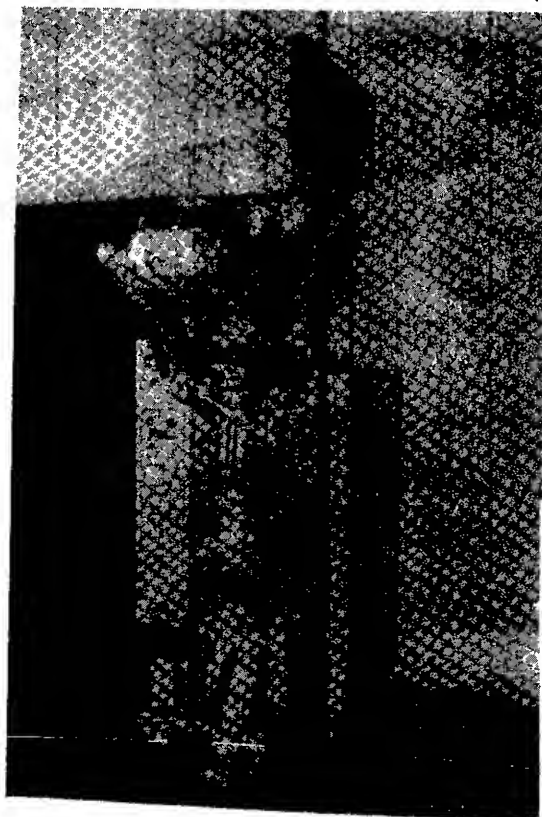
New Delhi, the 11th August, 2004

**S.O. 2028 .—**Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the self indicating, Automatic filling machine (Auger Filler) of "Sunny" series and With brand name "Sunny" (hereinafter referred to as the said model), manufactured by M/s Sunny Solly Machines Pvt. Ltd. C-325 & 326, Sector-10, Noida, Gaziabad, Uttar Pradesh and which is assigned the approval mark IND/09/2004/25;

The said model (See the figure given below) an automatic filling machine (Auger Filler) and Its maximum capacity is 250g. It is used for filling the free flowing products like toothpowder, talcum powder, spices, tea, coffee powder etc. The instruments operates on 230 V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with capacity in the range of 10g. to 250g. manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(246)/2003]

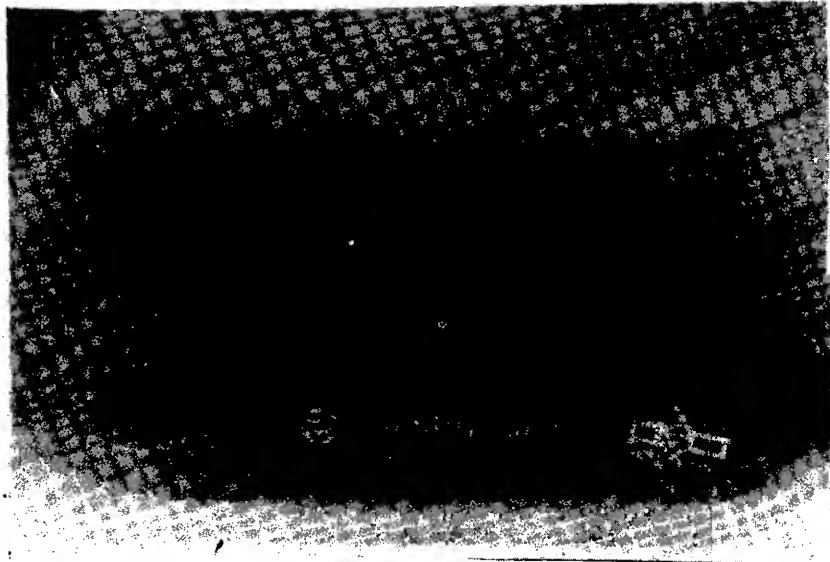
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अगस्त, 2004

**का.आ. 2029.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त स्पोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल सार्थकता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स लुहार माधा मंजी एण्ड कं०, नाडी कोटेल, सब्जी मार्केट के पीछे, सावरकुण्डला-364515, गुजरात द्वारा विनिर्मित यांत्रिक काउण्टर मशीन जिसके ब्राण्ड का नाम "माधा मंजी" है। (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2004/65 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) यांत्रिक काउंटर मशीन है जिसकी अधिकतम क्षमता 10 कि.ग्रा. है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, सार्थकता और कार्यपालन के यांत्रिक काउंटर मशीन भी होंगी जो 500 ग्र. से 50 कि. ग्रा. तक की अधिकतम क्षमता वाली हैं।

[फा.सं. डब्ल्यू एम 21(237)/2002]

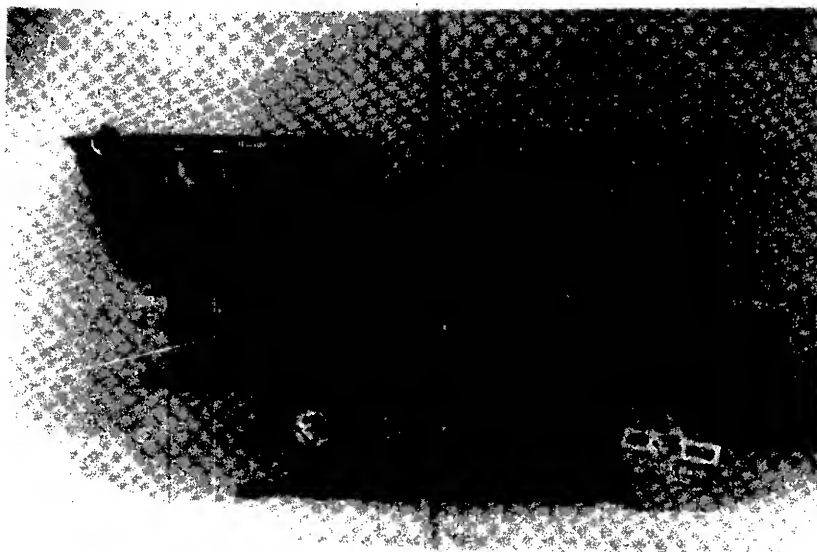
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th August, 2004

**S.O. 2029 .**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of counter machine with brand name "MADHA MANJI" (herein referred to as the said model), manufactured by M/s. Luhar Madha Manji and Co., Nadi Kante, Behind Vegetable Market, Savarkundla-363 515, Gujrat and which is assigned the approval mark IND/04/09/65

the said model (see the figure given below) is a counter machine with maximum capacity of 10kg.



Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of the same series with capacity ranging from 500 g to 50 kg manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

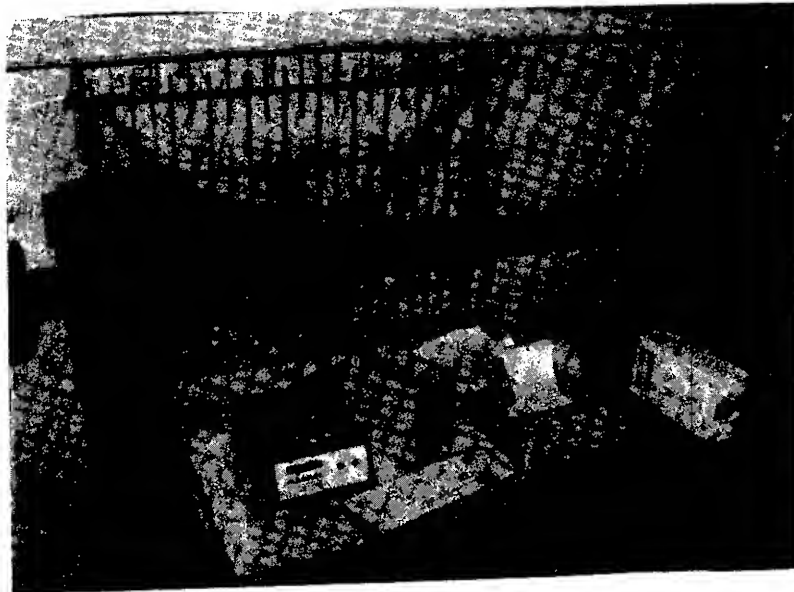
[F. No. WM-21(237)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

**का.जा. 2030 .**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अमर स्केल्स एण्ड इंजीनियरिंग, बी-382-383, दूसरा तल, नेहरू ग्राउंड, एन आई टी फरीदाबाद, हरियाणा द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ए आर एल डब्ल्यू" श्रृंखला के सदृश सूचक, अस्वचालित तोलन उपकरण (तोल सेतु-विषम भुज तुला प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "अमर" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2004/54 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक यांत्रिक विषमभुज तुला प्रकार का लीवर आधारित अस्वचालित तोलन उपकरण (तोल सेतु-विषमभुज तुला प्रकार का है) इसकी अधिकतम क्षमता 40 टन और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 कि. ग्रा. है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत इसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या इससे अधिक के "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 5 टन और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^3$ ,  $2 \times 10^3$ , या  $5 \times 10^3$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

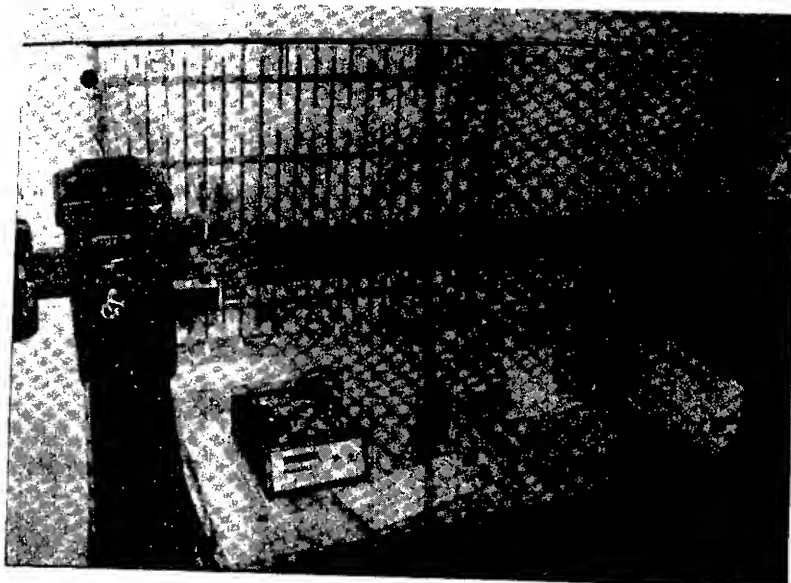
[फा.सं. डब्ल्यू एम-21(297)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2004

S.O. 2030.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Weighbridge-steelyard type) weighing instrument with analogue indication of "ARLW" series of medium accuracy (Accuracy class-III) and with brand name "AMAR" (herein referred to as the said model), manufactured by M/s. Amar Scales and Engineering, B-382-383, 2nd Floor, Nehru Ground NIT, Faridabad, Haryana and which is assigned the approval mark IND/09/2004/54;



The said model is a mechanical steelyard type liver based non-automatic weighing instrument (Weighbridge-steelyard type) with a maximum capacity of 40 tonne and minimum capacity of 100kg. The verification scale interval (e) is 5kg.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of the same series with maximum capacity above 5 tonne and up to 100 tonne with verification scale interval(n) in the range of 100 to 10000 for 'e' value of 5kg or more and with 'e' value of  $1 \times 10^4$ ,  $2 \times 10^4$  or  $5 \times 10^4$ , being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

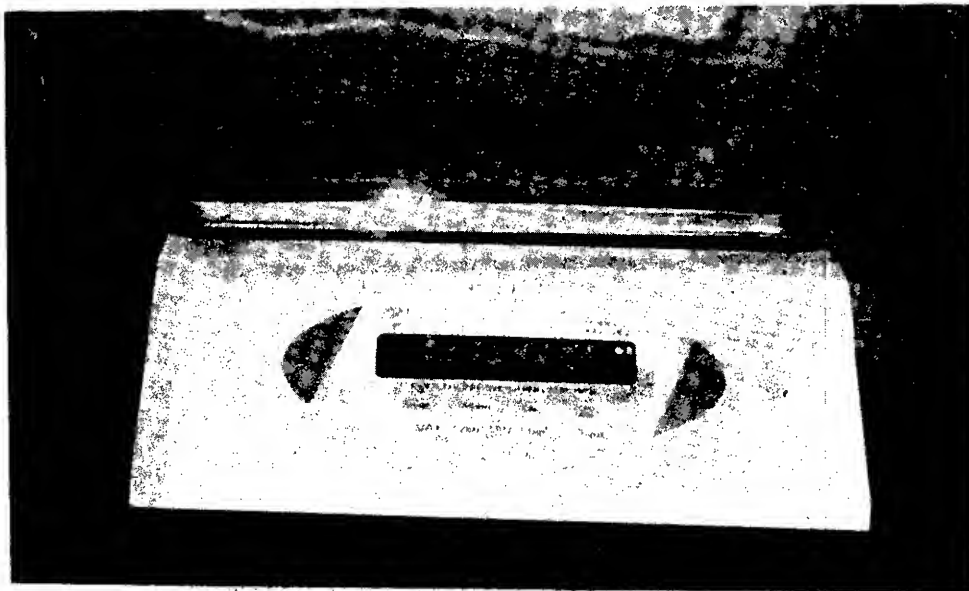
[F. No. WM-21(297)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

**का.आ. 2031 .**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इण्डोटेक स्विच एण्ड कंट्रोल्स, 67, राजेन्द्र नगर, इण्डस्ट्रियल एरिया, पो. आ. मोहन नगर, गाजियाबाद-201 007 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-2) वाले "आई टी टी" श्रृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "इण्डो-टॉप" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2004/06 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृतिमापी प्रकार भार सेल आधारित (टेबलटाप प्रकार) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 12 कि.ग्रा. और न्यूनतम क्षमता 50 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^6$ ,  $2 \times 10^6$  या  $5 \times 10^6$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

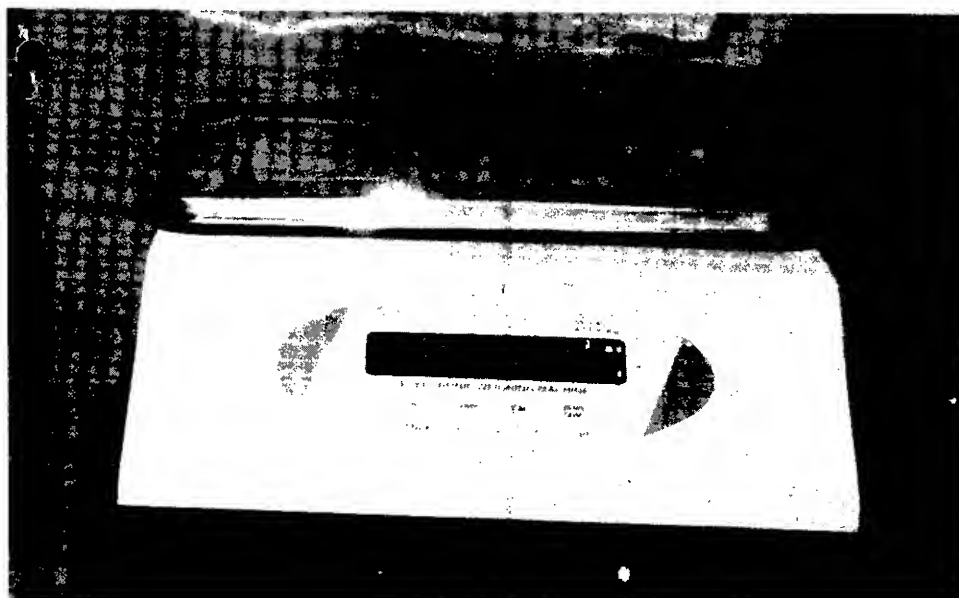
[फा.सं. डब्ल्यू एम-21(214)/2003]

पो. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New-Delhi, the 12th August, 2004

**S.O. 2031 .—**Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of non-automatic (Table top type) weighing instrument with digital indication of "ITT" series of high accuracy (accuracy class-II) and with brand name "INDO-TOP" (herein referred to as the said model), manufactured by M/s. Indotech Switch Gear & Controls, 67, Rajendra Nagar, Industrial Area, P.O. Mohan Nagar, Gaziabad-201 007, Uttar Pradesh and which is assigned the approval mark IND/09/2004/06



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 12kg and minimum capacity of 50g. The verification scale interval (e) is 1g. It has a tare device with a 100 percent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of the same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg. to 50mg. and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg. or more and with 'e' value  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(214)/2003]

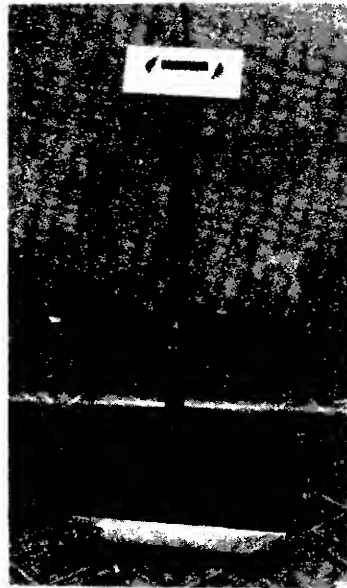
P. A. KRISHNAMOORTHY, Director, Legal Metrology



नई दिल्ली, 12 अगस्त, 2004

का.आ. 2032.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इण्डोटेक स्विच एण्ड कन्ट्रोल्स, राजेन्द्र नगर, इण्डस्ट्रियल एरिया, पो. आ. मोहन नगर, गाजियाबाद-201 007 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “आई टी पी” शृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम “इण्डो-टॉप” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/07 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृतिमापी प्रकार भार सेल आधारित (प्लेटफार्म प्रकार) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 500 कि.ग्रा० और न्यूनतम क्षमता 1 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. से अधिक और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^*$ ,  $2 \times 10^*$  या  $5 \times 10^*$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(214)/2003]

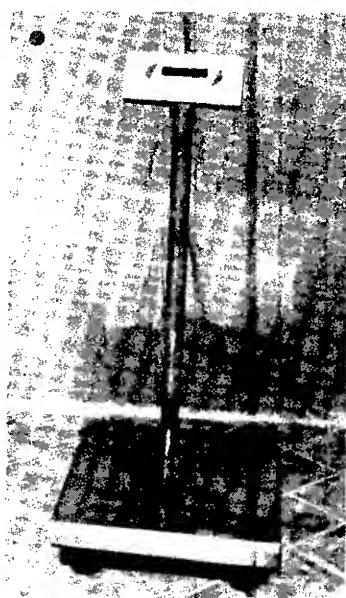
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

24336/04-7

New Delhi, the 12th August, 2004

S.O. 2032 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of non-automatic (Platform type) weighing instrument, with digital indication of "ITP" series of medium accuracy (accuracy class-III) and with brand name "INDO TOP" (herein referred to as the said model), manufactured by M/s. Indotech Switch Gear & Controls, 67, Rajendra Nagar, Industrial Area, P.O. Mohan Nagar, Gaziabad-201 007, Uttar Pradesh and which is assigned the approval mark IND/09/2004/07;



The said Model is a strain gauge type loadcell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500 kg. and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 1000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

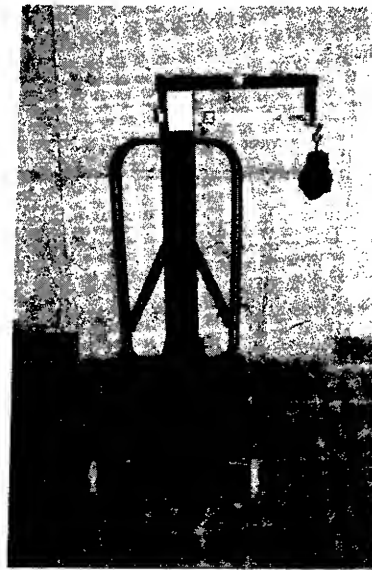
[F. No. WM-21(214)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

**का.आ. 2033.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स गी के इंजीनियरिंग इंडस्ट्रीज, काश्मीर रोड, बटाला-143505 जिला गुरदासपुर, पंजाब द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "पी एस फ" शृंखला के तुल्य रूप सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म मशीन-प्रो वेट प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "गी के" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/99 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक स्टील यार्ड प्रकार का लीवर आधारित अस्वचालित (प्लेटफार्म मशीन-प्रो वेट प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 100 ग्रा. है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. से ऊपर और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^6$ ,  $2 \times 10^6$  या  $5 \times 10^6$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[ फा.सं. डब्ल्यू एम-21(73)/2003 ]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2004

**S.O. 2033 .**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform machine-Pro weight type) with analogue indication of "PFS" series of medium accuracy (accuracy class-III) and with brand name "GEE KAY" (herein referred to as the said model), manufactured by M/s. Gee Kay Engineering Insustries, Kashmir Road, Batale-143505, District-Gurdaspur, Punjab and which is assigned the approval mark IND/09/2004/99;



The said Model (See the figure given above) is a steelyard type lever based non-automatic weighing instrument (Platform machine-Pro weight type) with a maximum capacity of 300 kg. and minimum capacity of 2kg. The verification scale interval (e) is 100 g.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent p.

Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 1000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

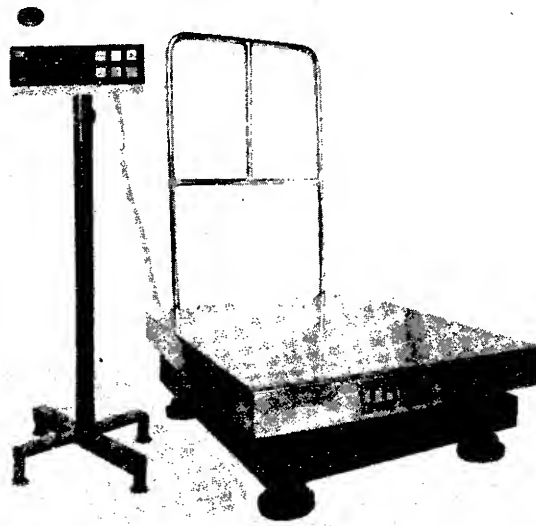
[F. No. WM-21(73)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

**का.आ. 2034.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ओरबिट कम्प्यूटर्स और टेलीकम्यूनिकेशन 199, पी एल शर्मा रोड, अपर इंडिया डेयरी मेरठ-250001 (उत्तर प्रदेश) द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "टी डब्ल्यू एस-1260" श्रृंखला के अंकक सूचन सहित अस्वचालित (टेबल टोप प्रकार) के तोलन उपकरण के मॉडल का, जिसके ब्राण्ड का नाम "ट्रिक्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/519 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (टेबल टोप प्रकार) है। इसकी अधिकतम क्षमता 2000 कि. ग्रा. और न्यूनतम क्षमता 10 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 500 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्याकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. से ऊपर और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^6$ ,  $2 \times 10^6$  या  $5 \times 10^6$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

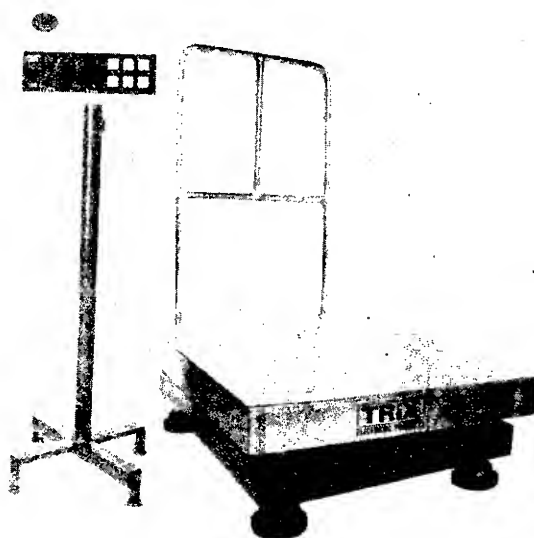
[फा. सं. डब्ल्यू एम-21(43)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2004

**S.O. 2034 .**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of non-automatic (Platform type) weighing instrument, with digital indication of "TWS-1260" series of medium accuracy (accuracy class-III) and with brand name "TRIX" (herein referred to as the said model), manufactured by M/s Orbit Computers & Telecommunications 199, P.L. Sharma Road, Opp. Upper India Dairy Meerut-250001 (U.P.) and which is assigned the approval mark IND/09/2003/519;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 2000 Kg. and minimum capacity of 10 kg. The verification scale interval (e) is 500g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

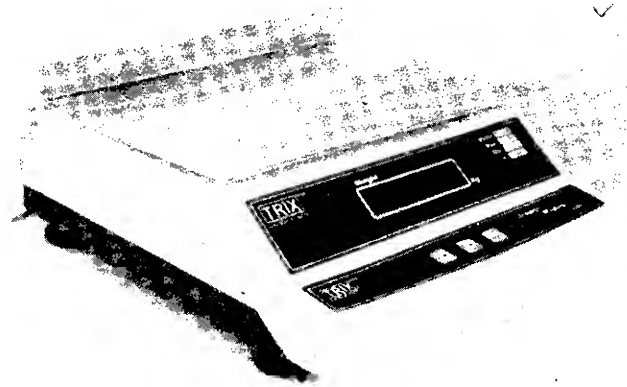
Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 5000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(43)/2002]  
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

**का.आ. 2035.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ओरबिट कम्प्यूटर्स और टेलीकम्यूनिकेशन 199, पी एल शर्मा रोड, अपर इंडिया डेयरी मेरठ-250001 (उत्तर प्रदेश) द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले “टी डब्ल्यू एस-20” शृंखला के अंकक सूचन सहित अस्वचालित (टेबल टॉप प्रकार) के तोलन उपकरण के मॉडल का, जिसके ब्राण्ड का नाम “ट्रिक्स” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/518 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) है। इसकी अधिकतम क्षमता 20 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^6$ ,  $2 \times 10^6$  या  $5 \times 10^6$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

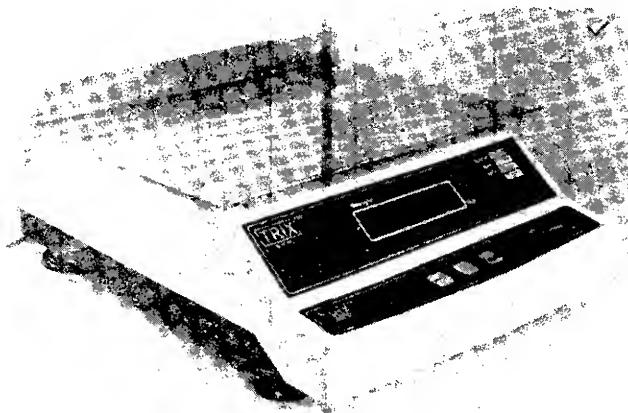
[फा. सं. डब्ल्यू एम-21(43)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2004

S.O. 2035.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of non-automatic (Table top type) weighing instrument, with digital indication of "TWS-20" series of medium accuracy (accuracy class-III) and with brand name "TRIX" (herein referred to as the said Model), manufactured by M/s. Orbit Computers & Telecommunications 199, P.L. Sharma Road, Opp. Upper India Dairy Meerut-250001 (U.P.) and which is assigned the approval mark IND/09/2003/518;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 20 Kg. and minimum capacity of 100 g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero manufacture by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(43)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology



नई दिल्ली, 12 अगस्त, 2004

का.आ. 2036.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सी ए एस वेइंग इण्डिया प्रा. लि., 568, उद्योग विहार, फेस-V, गुडगांव, हरियाणा-122 016 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ई के" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण के मॉडल का, जिसके ब्राण्ड का नाम "सी ए एस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/88 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृतिमापी प्रकार का लोड सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 5 कि. ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$  या  $5 \times 10^*$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(279)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक मन्त्र विभाग

New Delhi, the 12th August, 2004

**S.O. 2036 .**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument with digital indication of "EK" series of medium accuracy (accuracy class-III) and with brand name "CAS" (herein referred to as the said Model), manufactured by M/s CAS Weighing India Private Limited, 568, Udyog Vihar, Phase V, Gurgaon, Haryana-122 016 and which is assigned the approval mark IND/09/2004/88;



The said model is a strain gauge type load cell based non-automatic weighing instrument with a maximum capacity of 5 Kg. and minimum capacity of 40 g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) display indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg $\ddagger$  with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where K is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

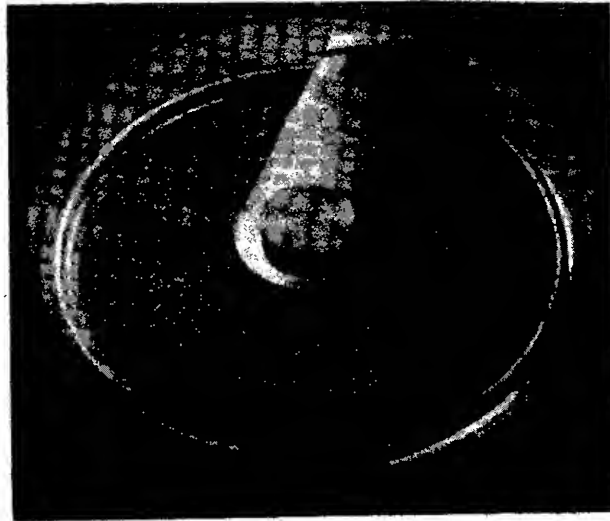
[F. No. WM-21(279)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

**का.आ. 2037.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सी ए एस वेइंग इण्डिया प्रा. लि., 568, उद्योग विहार, फेस-V, गुडगांव, हरियाणा-122 016 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एच ई" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (व्यक्ति तोलन मशीन प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "सी ए एस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/89 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृतिमापी प्रकार का लोड सेल आधारित अस्वचालित (व्यक्ति तोलन मशीन) तोलन उपकरण है। इसकी अधिकतम क्षमता 150 कि. ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 100 कि.ग्रा. से 200 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान  $1 \times 10^3$ ,  $2 \times 10^3$  या  $5 \times 10^3$  के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

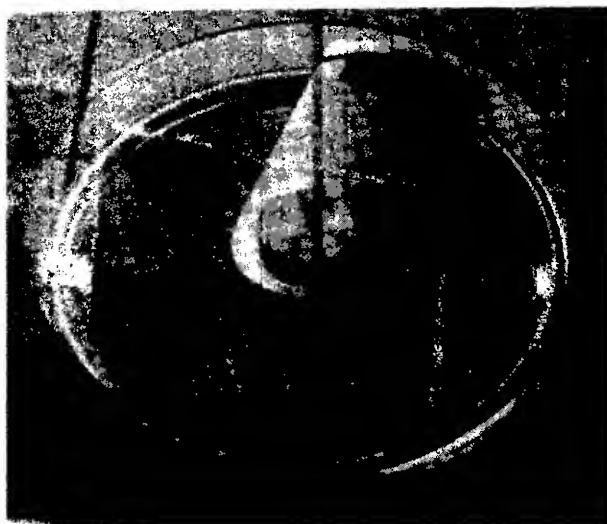
[फा. सं. डब्ल्यू एम-21(279)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2004

S.O. 2037.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the non-automatic weighing instrument (person weighing machine) with digital indication of "IIE" series of medium accuracy (accuracy class-III) and with brand name "CAS" (herein referred to as the said model), manufactured by M/s. CAS Weighing India Private Limited, 568, Udyog Vihar, Phase V, Gurgaon, Haryana-122 016 and which is assigned the approval mark IND/09/2004/89;



The said model is a strain gauge type load cell based non-automatic weighing instrument (person weighing machine) with a maximum capacity of 150 kg. and minimum capacity of 2 kg. The verification scale interval (e) is 100 g. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) display indicates the weighing result. The instrument operates on 230 V, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 100 kg to 200 kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

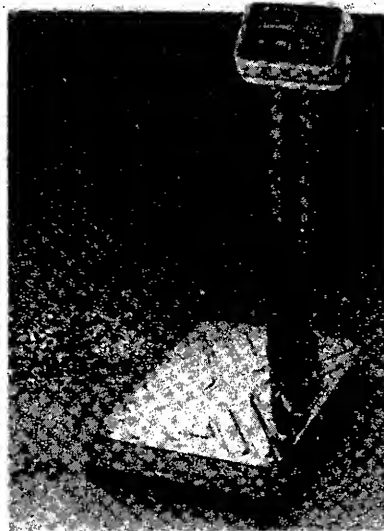
[F. No. WM-21(279)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

**का.आ. 2038.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सी ए एस वेइंग इण्डिया प्रा. लि., 568 उद्योग विहार फेस-V, गुड़गांव, हरियाणा-122016 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “ए सी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम “सी ए एस” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/90 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृतिमापी प्रकार का लोड सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 100 कि. ग्रा. और न्यूनतम क्षमता 400 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 20 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्याकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 300 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान  $1 \times 10^3$ ,  $2 \times 10^3$  या  $5 \times 10^3$ , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

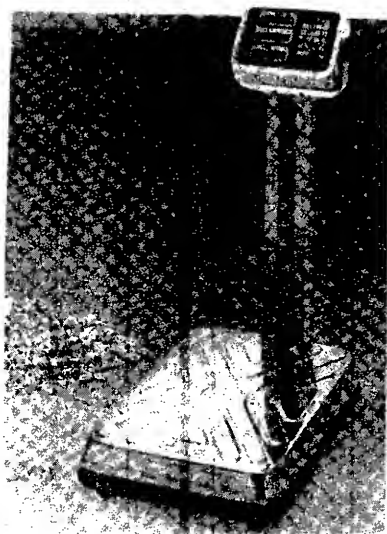
[फा. सं. डब्ल्यू एम-21(279)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2004

**S.O. 2038.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform type) with digital indication of "AC" series of medium accuracy (accuracy class-III) and with brand name "CAS" (herein referred to as the said model), manufactured by M/s. CAS Weighing India Private Limited, 568, Udyog Vihar, Phase V, Gurgaon, Haryana-122 016 and which is assigned the approval mark IND/09/2004/90;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 100 Kg. and minimum capacity of 400 g. The verification scale interval (e) is 20g. It has a tare device with a 100 per cent subtractive retained tare effect. The Vacuum Florescent Display (VFD) display indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alterative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. and upto 300 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  or  $5 \times 10^k$ , where k is a positive or negative whole number or equal to zero manufacture by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

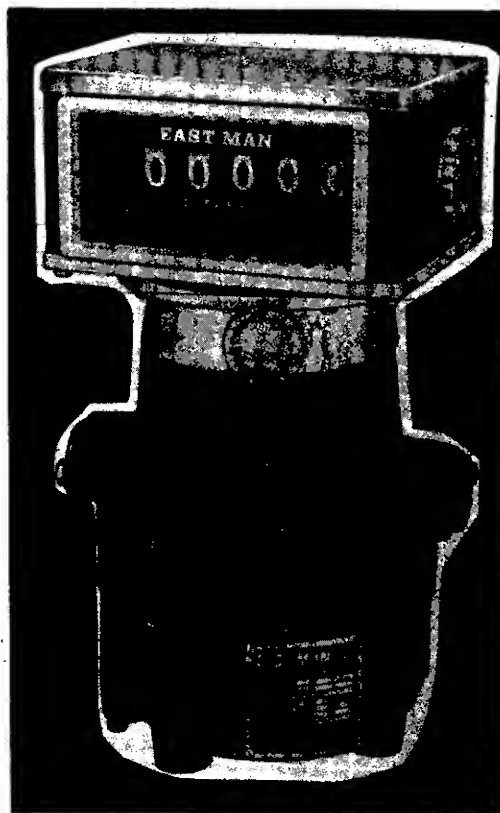
[F. No. WM-21(279)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2039.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ईस्टर्न आटोमोटिव मशीन टूल्स प्रा. लि., 1243, एम आई ई, बहादुरगढ़-124507 द्वारा विनिर्मित "3 पी एम" शृंखला के सदृश सूचन सहित जल से भिन्न द्रव्यों के लिए अनुमापी मापमान मीटर के लिए मीटर (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) के मॉडल का, जिसके ब्राण्ड का नाम "ईस्ट मैन" है और जिसे अनुमोदन चिह्न आई एन डी/09/2004/01 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्द भी किया जाएगा।

उक्त मॉडल (ऊपर दी गई आकृति देखें) सदृश सूचन सहित एक अनुमापी मापमान (जल से भिन्न द्रव्यों के लिए मीटर) के लिए यांत्रिक मीटर है। मापक एकक घनात्मक विस्थापन है, किसी पाइप लाइन द्वारा किसी असंश्लेषण द्रवों के प्रवाह के मापमान के लिए पश्चाग्र पिस्टन प्रकार का मीटर है। इसकी अधिकतम प्रवाह प्रक्षिप्त दर 90 लीटर प्रति मिनट है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा प्रदाय पर कार्य करता है। इसकी अधिकतम क्षमता 9999.9 लीटर है और कम से कम गणना 100 मिली लीटर है। इसका उपयोग पेट्रोलियम उत्पादों, तरल रासायनिकों, खाद्य तेलों इत्यादि के मापने के लिए किया जाता है।

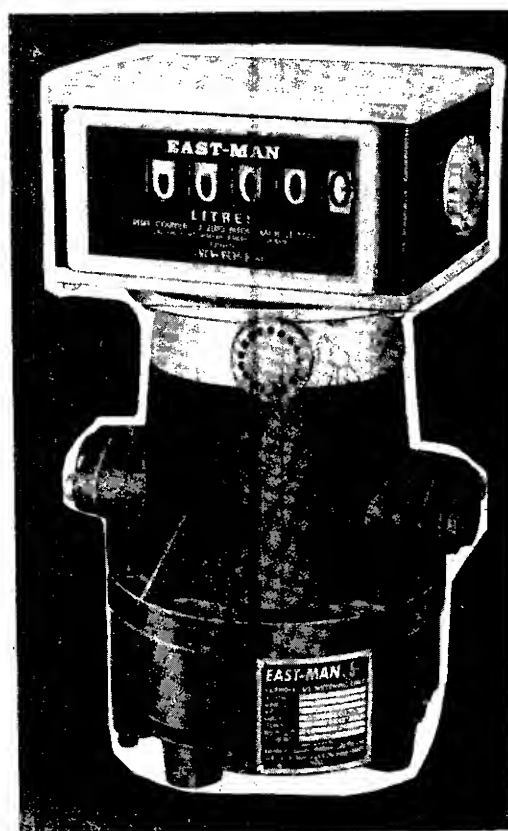
[फा. सं. डब्ल्यू एम-21(292)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2004

**S.O. 2039.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of Meter for volumetric measurement-meter for liquids other than water with analogue indication (herein referred to as the model) of "3 PM" series with brand name "EAST-MAN", manufactured by M/s. Eastern Automotive Machine Tools Pvt. Ltd., 1243, MIE, Bahadurgarh-124 507 and which is assigned the approval mark IND/09/2004/01;



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

The said Model (See the figure given below) is a mechanical meter for volumetric measurements (meter for liquids other than water) with analogue indication. The metering unit is positive displacement, reciprocating piston type meter for measurement of any non-corrosive liquids flowing through a pipeline. The maximum flow rate observed is 90 liter per minute. The instruments operates on 230V, 50Hertz alternate current power supply. Its maximum capacity is 9999.9 litre and least count is 100ml. It is used for measurement of petroleum products, liquid chemicals, edible oil etc.

[F. No. WM-21(292)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology



**पोत परिवहन मंत्रालय**

(नौवहन पक्ष)

नई दिल्ली, 19 अगस्त, 2004

का.आ. 2040.—केन्द्रीय सरकार, नाविक भविष्य निधि स्कीम, 1966 के पैरा 3 के साथ पठित नाविक भविष्य निधि अधिनियम, 1966 (1966 का 4) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के परिवहन मंत्रालय (नौवहन पक्ष) की अधिसूचना सं. का.आ.5757 तारीख 11 दिसम्बर, 1985 में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में “नियोक्ता प्रतिनिधि (केन्द्रीय सरकार द्वारा इस निमित्त उस सरकार द्वारा मान्यताप्राप्त नियोक्ताओं के संगठनों से परामर्श करने के पश्चात् नियुक्त किए गए हों)”, के अधीन या उसको शीर्ष के अधीन क्रम संख्यांक 5 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्यांक और प्रविष्टि रखी जाएगी, अर्थात् :—

“5. श्री प्रशांत देव, भारतीय राष्ट्रीय पोत स्वामी संगम, मुम्बई”।

[सं. एस टी-14018/5/2000-एम टी]

नानक चंद, अवर सचिव

पाद टिप्पण : मूल अधिसूचना सं. का.आ. 5757, तारीख 11 दिसम्बर, 1985 और तत्पश्चात् इसे का.आ. 568, तारीख 13 फरवरी, 1991, का.आ. 277, तारीख 27 जनवरी, 1996, का.आ. 868, तारीख 18 अप्रैल, 2001, का.आ. 3386, तारीख 5 दिसम्बर, 2001 और का.आ. 1249, तारीख 20 मई, 2004 को संशोधन किया गया।

**MINISTRY OF SHIPPING**

(SHIPPING WING)

New Delhi, the 19th August, 2004

S.O. 2040.—In exercise of the powers conferred by Section 5 of the Seamen's Provident Fund Act, 1966 (4 of 1966), read with paragraph 3 of the Seamen's Provident Fund Scheme, 1966, the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Shipping (Shipping Wing) number S.O. 5757, dated the 11th December, 1985, namely :—

In the said notification, under the heading “Employers' Representatives (Appointed by the Central Government after consultation with Organisations of Employers recognised by that Government in this behalf)”, for serial number 5 and

2433G/04-9

the entry relating thereto, the following serial number and entry shall be substituted, namely :—

“5. Shri Prasanta Deb, Indian National Shipowners' Association, Mumbai”.

[No. ST-14018/5/200-MT]

NANAK CHAND, Under Secy.

Footnote: The principal notification was published vide number S.O. 5757, dated the 11th December, 1985 and subsequently amended vide S.O. 568, dated the 13th February, 1991, S.O. 277, dated the 27th January, 1996, S.O. 868, dated the 18th April, 2001, S.O. 3386, dated the 5th December, 2001 and S.O. 1249 dated the 20th May, 2004.

**पेट्रोलियम और प्राकृतिक गैस मंत्रालय**

नई दिल्ली, 20 अगस्त, 2004

का.आ. 2041.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 821 तारीख 23 मार्च, 2004, जो भारत के राजपत्र, तारीख 3 अप्रैल, 2004 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में पाने वाडी (मनमाड) से मध्य प्रदेश राज्य में मांगल्या (इन्दौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-मनमाड पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र में प्रकाशित अधिसूचना की प्रतियां जनता को तारीख 15 मई, 2004 को उपलब्ध करा दी गई थीं;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार इस घोषणा के

प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

## अनुसूची

तहसील : महँ जिला: इंदौर राज्य : मध्य प्रदेश

क्र. सं. ग्राम का नाम सर्वे नम्बर क्षेत्रफल हैक्टेयर में

1	2	3	4
1.	कालीकिराय	1/1(शा.भूमि)	0.4050
2.	दुर्जनपुरा	296/1, 296/2	0.0100
3.	सिहोद	425/1, 425/2	0.0660
		500	0.1200
4.	कुमठी	33/1/2	0.0360
		28	0.0050
		10/4	0.1570
		10/2	0.0180
		33/2	0.0300
5.	सीतापाट	291/1, 291/2	0.0560
		299	0.1720
		324	0.0050
		84/380/3	0.1360
		75	0.0740
		279	0.0210
		90 भाग	0.0160
6.	भरदला	101	0.0310
		156/18	0.1920
		156/16	0.1920
		156/17	0.1920
		156/7	0.1080
		156/8	0.1100
		156/9/1	0.2320
		156/10/9	0.2320
		156/11/1	0.2130
		156/12/1/1	0.2120
		156/13/1	0.2160
		156/4	0.2910
		154/15/1	0.2910
		94/9	0.0278
		94/10	0.1730
		94/8	0.1010
7.	गोपालपुरा	51/2	0.3340
		51/1	0.0320
8.	भाटखेड़ी	311 भाग	0.0160
		305	0.0450
		307	0.0220

1	2	3	4
	भाटखेड़ी—जारी	308	0.1400
		85	0.0610
		86/1, 86/2	0.0220
		88/806/1	0.1370
		88/807/1	0.1540
		322/1	0.1300
		322/4 क	0.1170
		321	0.1600

[फा. सं. आर-31015/44/2001-ओ आर-II]

हरीश कुमार, अवर सचिव

## MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 20th August, 2004

**S.O. 2041.**—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 821 dated the 23rd March, 2004, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India, dated the 3rd April, 2004, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Manmad Pipeline Extension Project from Panewadi (Manmad) in the State of Maharashtra to Manglya (Indore) in the State of Madhya Pradesh by Bharat Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 15th May, 2004;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication, of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

**SCHEDULE**

**TEHSIL : MHOW DISTRICT : INDORE**

**STATE : MADHYA PRADESH**

S.No.	Name of village	Survey No.	Area in hectare
1	2	3	4
1.	Kalikiray	1/1 (G.L.)	0.4050
2.	Durjanpura	296/1, 296/2	0.0100
3.	Sihod	425/1, 425/2	0.0660
		500	0.1200
4.	Kumthi	33/1/2	0.0360
		28	0.0050
		10/4	0.1570
		10/2	0.0180
		33/2	0.0300
5.	Sitapat	291/291/2	0.0560
		299	0.1720
		324	0.0050
		84/380/3	0.1360
		75	0.0740
		279	0.0210
		90 Part	0.0160
6.	Bhardala	101	0.0310
		156/18	0.1920
		156/16	0.1920
		156/17	0.1920
		156/7	0.1080
		156/8	0.1100
		156/9/1	0.2320
		156/10/9	0.2320
		156/11/1	0.2130
		156/12/1/1	0.2120
		156/13/1	0.2160
		156/4	0.2910
		156/15/1	0.2910
		94/9	0.0270
		94/10	0.1730
		94/8	0.1010

1	2	3	4
7.	Gopalpura	51/2	0.3340
		51/1	0.0320
8.	Bhatkhedi	311 Part	0.0160
		305	0.0450
		307	0.0220
		308	0.1400
		85	0.0610
		86/1, 86/2	0.0220
		88/806/1	0.1370
		88/807/1	0.1540
		322/1	0.1300
		322/4 K	0.1170
		321	0.1600

[F. N. R-31015/44/2001-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 20 अगस्त, 2004

का. आ. 2042.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 1426 तारीख 11 जून, 2004, जो भारत के राजपत्र तारीख 19 जून, 2004 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में पानेवाडी (मनमाड) से मध्यप्रदेश राज्य में मांगल्या (इन्दौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-मनमाड पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 28 जून, 2004 को उपलब्ध करा दी गई थीं;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है

कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

### अनुसूची

तहसील : शिंदखेडा		जिला : धुलिया	राज्य : महाराष्ट्र		
क्र. सं.	ग्राम का नाम	गट/सर्वे नंबर	क्षेत्र हैक्टर	आर	चौरस मीटर
1.	बेटावद	867A	0	07	56
		717	0	01	00
2.	पदावद	180/2	0	03	33
3.	पाष्टे	239/1/2	0	14	40
		118/2	0	27	00
		118/3	0	16	20
4.	मुडावद	243/1-अ-1	0	06	66
5.	मलसर	206/1ड	0	06	03

[फा. सं. आर-31015/16/2001-ओआर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 20th August, 2004

S.O. 2042.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1426, dated the 11th June, 2004, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 19th June, 2004, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Manmad Pipeline Extension Project from

Panewadi (Manmad) in the State of Maharashtra to Manglya (Indore) in the State of Madhya Pradesh by Bharat Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public on the 28th June, 2004;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication, of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

### SCHEDULE

TEHSIL : SHINDKHEDA DISTRICT : DHULE  
STATE : MAHARASHTRA

S. No.	Name of Village	Gat/ Survey Numbers	Area		Sq. Mts.
			Hectores	Ares	
1.	Betavad	867A	0	07	56
		717	0	01	00
2.	Pashte	239/1/2	0	14	40
		118/2	0	27	00
		118/3	0	16	20
3.	Malsar	206/1D	0	06	03
4.	Mudavad	243/1-A-1	0	06	66
5.	Padhavad	180/2	0	03	33

[F. No. R-31015/16/2001-OR-II]  
HARISH KUMAR, Under Secy.

**श्रम मंत्रालय**

नई दिल्ली, 27 जुलाई, 2004

**का.आ. 2043.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय विद्यालय संगठन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 129/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-07-2004 को प्राप्त हुआ था।

[ सं० एल-42012/34/97-आईआर (डीयू) ]

कुलदीप राय वर्मा, डैस्क अधिकारी

**MINISTRY OF LABOUR**

New Delhi, the 27th July, 2004

**S.O. 2043.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 129/97) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kendriya Vidyalaya Sangathan and their workman, which was received by the Central Government on 27-07-2004.

[No. L-42012/34/97-IR (DU)]

KULDIP RAI VERMA, Desk Officer

**ANNEXURE**

**BEFORE THE PRESIDING OFFICER CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT-II, NEW DELHI**

**PRESIDING OFFICER: Shri R.N. Rai****I. D. No. 129/97**

In the matter of:

Sh. Praveen Kumar

*Versus*

Kendriya Vidyalaya Sangathan

**AWARD**

The Ministry of Labour by its letter No. L-42012/34/97-IR(DU) Central Government Dt. 05-09-1997 has referred the following point for adjudication :—

The point runs as hereunder :—

“Whether the action of the management of Kendriya Vidyalaya Sangathan in terminating the services of Sh. Parveen Kumar, watchman, Kendriya Vidyalaya

at N.T.P.C., Badarpur, New Delhi w.e.f. 23-5-92 is justified? If not, to what relief, the workman is entitled to?”

The claimant has filed statement of claim. In the statement of claim, he has stated that he had been working in the Kendriya Vidyalaya Sangathan since 29-10-82 as watchman. He has been employed in the school of the management at AGCR, Andrews Ganj, Gurgaon, Meerut, Ghaziabad etc. Lastly he was employed in the NTPC school at Badarpur since 1989.

That the work and conduct of the workman had been neat and clean. In spite of repeated requests, visits and representations on behalf of the workman, he has not been allowed duty by the management. He gave the last representation on 3-2-96 to the Chairman, Kendriya Vidyalaya Sangathan but no reply has been received by the workman to the same. The workman has been in a very poor financial condition for lack of resources so there was delay in filing the statement of claim. He always avoided to approach appropriate authority in the hope that the management would fulfil its assurances and allow him duty but he was not given duty.

The respondent management has filed WS. In the WS, it has been stated that the management is not an industry so this Tribunal has no jurisdiction. The statement of claim is misconceived. The claimant is not entitled to any relief whatsoever. He was never terminated from his temporary job as alleged by him. On the contrary it was he, who on his own accord disappeared from his duty leaving the school premises unattended, without any permission or intimation to the competent authority of the management.

He was a temporary watchman and his services were never made permanent. The claimant through out his services was irregular, disobedient and aggressive. The claimant was throughout a trouble maker till his disappearance from his last place of duty i.e. at Kendriya Vidyalaya, NTPC at Badarpur. Through out his tenure he was served with many show cause notices on different occasions for his misdeeds. However, he was continued to work as a watchman on his assurances/promises for keeping the sanctity of his job and also on compassionate grounds. The claimant was a heavy drinker and was many a time caught red-handed under the influence of liquor by different members of staff on different occasions during his duty hours. The claimant used abusive language and also used to indulge in fights with his colleagues and staff. The claimant was rushed to the AIIMS hospital when under the influence of liquor he was stabbed. The claimant was brought to the NTPC Dispensary at Badarpur when he was in the influence of liquor on 3-12-1991. A report of the dealing doctor is annexed herewith as Annexure-III. The claimant was in the regular habit of disappearing from his duty for days together without any permission or intimation

whatsoever. The claimant instead of apologizing for his absence used to manipulate attendance register by forcibly signing on back dates and on being stopped used abusive language and physical force with other members of the staff.

In the written statement, it has been stated that the claimant never reported to the duty on the date i.e. 23-5-1992 and the management has to do with the substitute being left with no option in the interest of security of the school premises. The claimant does not have a bonafide claim and he has initiated the following proceedings with a malicious intent to pressurize the management. The contents of the rest of the paragraphs of statement of claim have been denied. It has been asserted that he disappeared from the school premises himself and he did not report for duty.

The workman has filed rejoinder. In his rejoinder, he has reiterated that he did not disappear from duty. His claim was absolutely satisfactory. He was not a heavy drinker. He never used abusive language to his colleagues and staff. He was never admitted in AIIMS. He was stabbed by some anti social elements and he was unconscious. The management with a mala fide intention did not allow him to join duty.

Heard arguments from both the sides and perused the papers on the record. It is necessary at the outset to say that evidence in this case has been recorded and it has been admitted in the evidence that he was working in Kendriya Vidyalaya Sangathan since 29-10-1982. It was argued from the side of the workman that his job was temporary but he had worked for 10 years before termination of his services. He was not allowed duty despite several representations and requests. He did not come on duty on 23-5-1992 so his services were terminated w.e.f. 23-5-1992 but no order of termination was given to him. He was simply asked not to join. When he went to join, he was beaten by the principal on 28-8-1992. He had written letter for his transfer on that day. From the oral evidence, it appears that he was absent for one day and he was not taken on duty when he reported the next day.

From the side of the management, my attention was drawn to 1982 LAB. I.C. 811, Robert D'souza versus Executive Engineer. The Hon'ble Supreme Court has held that leave without permission constitutes misconduct and it is not opened to the employer to terminate services without notice and enquiry.

The management itself has not followed the law laid down by the Hon'ble Supreme Court. No notice has been given to him and no enquiry was held. In 1982—Ind LLJ 191, DTC Versus Ram Kumar is regarding gainful employment. Thus, it is abundantly clear that no enquiry was held against the workman. No notice was given to him. He was absent for one day and when he reported for duty

the next day, he was asked not to join duty and he was beaten by the principal of that school.

1982 LAB. I.C. 811 is regarding retrenchment. This law is not applicable as there is no question of retrenchment in this case. The workman was simply asked not to join duty.

The next question that was raised by the management is that respondent is not an industry. My attention was drawn to FLR 1985, the Hon'ble High Court has held that in case there is continuous service for one year and for more than 240 days, the workman must be paid compensation.

In AIR 2002-SC, 1313, the Hon'ble High Court has held that in case a daily wager is in service for a short period with frequent spells of absence, there may be possibility of doing job somewhere else but this law is not applicable in the facts and circumstances of this case.

In first LLJ, 1989, The Hon'ble Delhi High Court has held that in case of absence, enquiry should be held. In the present case, no enquiry has been held.

So far as question of industry is concerned, in 1997 (8) SCC 767 the Hon'ble Apex Court has held that judicial discipline requires that judgement of a larger bench of the Supreme Court i.e. Bangalore Water Supply case should be followed. In Bangalore Water supply case, Kendriya Vidyalaya Sangathan has been held to be an industry.

My attention was drawn to 1999 LAB. IC, it has been held that college run by an Institution is an industry. In 1997 (8) Supreme Court, it has been held that the judgement of the larger bench of the Supreme Court will prevail over the judgement of the smaller bench. The Hon'ble Supreme Court has held in 1996-I LLJ to 1996-SC that jurisdiction of labour courts/tribunals under Industrial Disputes Act and authority under the payment of wages Act is not affected by the establishment of CAT in view of Section 28 of the said Act. In 1919 LAB. IC-97, the Hon'ble Rajasthan High Court has held that the college run by a company is an industry. In 1997 (8) SCC 767, it has been held that Telecom Department is an industry. In 1995-LAB. IC 654, the Hon'ble High Court MP has held that education is an industry. In 2000 LAB. IC 3304, the Hon'ble Supreme Court has held that the persons discharging sovereign functions do not come under the purview of industry. The duty of a watchman is not a sovereign function. In 2003-LAB-IC, 1951, it has been held that forest department is an industry. In Bangalore Water Supply, the larger bench of the Hon'ble Supreme Court has held that educational institution is an industry. In this case, it has also been decided that education is not only an industry but it is the mother of industries. the judgement of the Bangalore Water Supply is of the larger bench so it is to be followed in comparison to the judgement of the smaller bench. In 1996 SC 408, it has been held that jurisdiction of authority to entertain

claim under Section 15 and 16 is not affected by the Administrative Tribunal Act. The workman applicant in this case is not a teacher. He is simply a watchman. He has no duty to educate the children. As such, the watchman is a workman. Several judgements of the CAT have been filed and it was asserted by the management that Kendriya Vidyalaya Sangathan is not an industry and my attention was drawn to the judgement of J&K High Court, but the judgement of CAT is not a good law in view of several decisions of the Hon'ble Supreme Court of India that Kendriya Vidyalaya Sangathan is an industry. The management gave much emphasis on the judgement of the CAT even in the judgement of the CAT, it has been held that educational institutions are not industries. The judgement of Bangalore Water Supply cannot be taken away by judgement of the CAT or judgement by any Hon'ble High Court. The Hon'ble Supreme Court has held all along that Kendriya Vidyalaya Sangathan is an industry and particularly the workmen not entrusted with teaching job come within the purview of industry. So far as the decision of the CAT is concerned, this court is not bound by that decision in view of the various pronouncements of the Hon'ble High Court and the Hon'ble Supreme Court. CAT is a parallel forum for deciding the cases of workers appointed by the Union Government or the State Government but this Tribunal deals with the cases of Public Sector. As such, the Central Government Industrial Tribunal and the Central Govt. Administrative Tribunal operate in two different fields and the judgement of one is not binding on the other. The law cited by the management is not applicable in the facts and circumstances of the case and the Kendriya Vidyalaya Sangathan is an industry and the persons appointed by Kendriya Vidyalaya Sangathan are the workmen. The workman is a watchman and as such he must have been doing some duty of watchman, he cannot be presumed to sit idle in the circumstances. In view of the Hon'ble Supreme Court judgement, 50% wages are sufficient. The workman has not disclosed as to how he earned his subsistence without service. He has not disclosed source of any other income. As such, in the absence of any other evidence, it is presumed that he must be doing something for his subsistence. As such, 50% back wages are sufficient in the facts and circumstances of this case.

The reference is replied thus :—

The action of the management of Kendriya Vidyalaya Sangathan in terminating the services of Sh. Parveen Kumar, watchman, Kendriya Vidyalaya at N.T.P.C. Badarpur, New Delhi w.e.f. 23-5-92 is not justified. The workman deserves to be reinstated from 23-5-1992 with 50% back wages. In case he is not reinstated within one month from publication of the award, he will be entitled to 6% interest per annum on the back wages.

The award is given accordingly.

Dated : 16-7-2004. R.N. RAI, Presiding Officer

नई दिल्ली, 27 जुलाई, 2004

का.आ. 2044.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सार्दन रेलवे, चेन्नई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या आई.डी.-20/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2004 को प्राप्त हुआ था।

[सं० एल-41012/14/1993-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 27th July, 2004

S.O. 2044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D.-20/2003) of the Central Government Industrial Tribunal-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway, Chennai and their workman, which was received by the Central Government on 27-7-2004.

[No. L-41012/14/1993-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 24th May, 2004

PRESENT: K. JAYARAMAN, Presiding Officer

#### INDUSTRIAL DISPUTE NO. 20/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Southern Railway and their workman)

#### BETWEEN:

Sri K. Sreeramulu : I Party/Petitioner

#### AND

The General Manager, : II Party/Management

Southern Railway,  
Chennai.

#### Appearance :

For the Claimant : Mr. T.P. Kathiravan,  
Advocate

For the Management : Mr. G. Kalyanasundaram,  
Advocate



**AWARD**

The Central Government, Ministry of Labour vide Notification Order No. L-41012/14/1993-IR(B-I)(P.E.) dated 20-12-2002 has referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the action of the management of Southern Railway is not considering the change in date of birth of the applicant Sri K. Sreeramulu, Trimmer, CTXR Token No. 838 for his reinstatement into services is justified or not? If not, what relief, the applicant concerned is entitled to and from what date?”

2. After the receipt of the reference, it was taken on file as I.D. No. 20/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered into the services of Railways on 24-11-1950 as a sweeper and was subsequently promoted as Trimmer and he was working under direct control of CTXR, Chennai as token No. 838. The Petitioner's date of birth was entered in the service register as 24-11-1923 arbitrarily without any basis as proof. On 12-1-81 when he was asked to sign the retirement register by the Head Clerk, AME, he came to know that his date of birth was wrongly entered as 24-11-1923. Immediately, he made an appeal to carry out the correct date of birth being 15-2-1931 and he had enclosed his birth extract as proof of the same and despite the same. The II Party/Management failed to comply with his request and retired the Petitioner from service on 30-11-81. Being his date of birth 15-2-31, he should have been retired from service only on 28-2-89. Therefore, he filed a original suit in O.S. No. 8766/1981 in City Civil Court and he succeeded in the same. Against the same, the Respondent administration has filed an appeal, which was dismissed with a direction. Against this, the Petitioner filed a second appeal No. 1999/85 before the High Court and the Hon'ble High Court has ordered the Respondent Railways to hold an enquiry. In pursuance of that order, an enquiry was conducted on 23-9-87 and 24-9-87. But, the enquiry was not conducted in a proper manner. The Petitioner was directly examined by the Enquiry Officer in an illegal manner and the Enquiry Officer has acted in a biased manner. Even though the Petitioner has filed the birth extract from the Registrar of Births from Kottapetta Village, Vinjamur Taluk, Nellore District, the Railway administration has failed to consider the same. Even though the Petitioner has submitted a letter from the Medical health Office of the Superintendent, Govt. Hospital at Cuddappa furnishing the name of his brothers from service register of medical and health department, the Enquiry Officer has not considered all these things and

has arrived at a perverse finding that there is no case of alteration of date of birth of the Petitioner Sri K. Sreeramulu. The Petitioner has submitted several representations to the Respondent but the Respondent has failed and neglected to consider the same. The finding of the Enquiry Officer is perverse and contrary to the evidence on record and no reasonable man could have come to such a conclusion. The Petitioner is an illiterate and only can sign his name. The enquiry was conducted in contravention of principles of natural justice and the management has finally confirmed the retirement of the Petitioner on 30-11-81 by an order dated 18-11-87. Since the order is improper, unjust, illegal and void, the Petitioner has raised the dispute and he prays to pass an award that Petitioner's correct date of birth as 15-2-1931 and consequently set aside the order of retirement dated 30-11-81, which was confirmed by an order dated 18-11-87 as null and void and to direct the respondent to pay all back wages with other attendant benefits.

4. As against this, the Respondent in its counter statement has contended that the Petitioner was appointed in Railways on 24-11-1950 as a temporary sweeper. At the time of appointment, the Petitioner did not produce any record in support of his date of birth. Therefore, he was sent to Railway Doctor for assessment of his age. The railway Doctor assessed his age as 27 years and his date of birth was recorded as 24-11-1923 in service register as per the rule 145 of Indian Railway Establishment Code Vol. 1. Further, he has also given his date of birth as 24-11-1923 in all his loan applications which he made to railway administration and fully aware of the date of Birth entered into the service register. The railway administration has sent a communication dated 6-1-81 intimating his retirement that falls on 30-11-81 and immediately, the Petitioner has sent a representation dated 12-2-81 for the first time that his actual date of birth is 15-12-31 and not as 24-11-23. As per the procedure any alteration regarding date birth should be allowed after completion of probation or three years of service, whichever is earlier. But, in spite of the said rule, the Petitioner's representation was considered by the competent authority under Rule 145 of IREC and advised that the request for alteration of date of birth could not be considered for the reason that there is nothing to show that birth extract produced by the Petitioner containing the alleged date of birth is related to the Petitioner. As per the orders of the High Court in second appeal in S.A. No. 1999/95 a full fledged departmental enquiry was conducted after extending all reasonable opportunities to the Petitioner. But even in that enquiry, the Petitioner failed to produce his brothers or officials of Taluk office or officials of Govt. hospital, Cuddappa to substantiate his claim. After careful consideration, the Enquiry Officer submitted his report stating that the date of birth of the Petitioner is 24-11-23 and not as 15-2-31. Based on this finding, a suitable reply has been given to the Petitioner. Even his representation to the Chief Personnel Officer was rejected after consideration. Further,



it is seen from records produced by the Petitioner that his alleged brothers belong to Christian religion and this community is Thotty, whereas the Petitioner belongs to Hindu religion and his community is Madiga (Chuckliyar), which is totally different. It was further verified from the report that Mr. T. George and T. Chinnaiah. and T. Jeevaiah, the father's name has been recorded as Talluri Pedda Kondiah, whereas the Petitioner has alleged that his father's name is Talluri Yerra Kondiah. From the above details, it is clear that the document produced by the Petitioner is not genuine and not taken as an authentic proof for proving the date of birth of the Petitioner Further in the documents produced by the Petitioner, the native place of the Petitioner is mentioned as Yenganapalem, whereas in the service register of the Petitioner, his native place is given as Yenganapalayam. Thus, there are lot of contradictions and therefore, the documents cannot be considered as birth certificate of the Petitioner and they have not come to a conclusion that the date of birth of the Petitioner is 15-2-1931. Further, the Petitioner has stated that he has worked in army for nearly three years from 1945 to 1948. If the date of birth of the Petitioner is considered as 15-2-31, as alleged by him, the age of the Petitioner would be only 14 years while joining the military service. But, in the military service, no minor is appointed at the age of 14. Therefore, the allegation that the Petitioner's date of birth 15-2-31 is false. During his service period, the employees in railways are advised about their seniority in their cadre wherein the date of birth is also mentioned. As such, the Petitioner cannot claim that he was not aware of his date of birth entry in the service register and therefore, for all these reasons, the respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :—

- (i) "Whether the action of the respondent/management in not considering the change in date of birth of the Petitioner for his reinstatement in service is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :—

6. It is an admitted case of both sides that the Petitioner entered into the services of the Respondent/Management on 24-11-1950 as sweeper and subsequently, promoted as Trimmer. It is also an admitted case that the Petitioner is an illiterate employee and the Petitioner's date of birth is entered into the service register as 24-11-1923. When the Petitioner was asked to sign the retirement register by the Head Clerk AME, he came to know that his date of birth was wrongly entered as 24-11-23 and to carry out the correct date of birth as 15-2-1931, he enclosed his birth extract of Village Munsif Certificate issued by Taluk Officer, Udayagiri on 31-1-81 under Ex. W1 and the VAO certificate is marked as Ex. W2 and the copy of the appeal

petition is marked as Ex. W3. The Respondent Divisional Office has not accepted the contention of the Petitioner and rejected his claim. Hence, the Petitioner has filed O.S. No. 8766/81 before the City Civil Court, Chennai and got declaration of his date of birth as 15-2-31. Against this, the Respondent/Management filed A.S. No. 439/83 and in that, the appeal was dismissed, with a direction that the respondent to hold an enquiry on the above said issue, based upon the birth extract produced by the Petitioner by granting sufficient time to prove the Petitioner's case before the Respondent. But, as against this, the Petitioner has preferred a second appeal before, the High Court, which was dismissed confirming the judgement of lower Court that fresh direction to issue notice of enquiry well in advance so that he could gather documentary evidence and also bring sufficient witnesses as he could be examined in his support and the High Court has also directed the Respondent to pass orders after holding full fledged enquiry. But, the Petitioner alleged that the Respondent has not conducted the enquiry properly and rejected his claim and the Petitioner has raised dispute before this Tribunal after getting a direction from the High Court in W.P. No. 5012/89 dated 17-4-90 for conciliation and subsequently filed W.P. No. 9947/97 under Ex. W26 to refer the dispute to the Tribunal. In this case, the Petitioner has produced 31 documents which are marked as Ex. W1 to W31 in which Ex. W1 = W29 are birth extracts of the Petitioner, which is in Telegu and the translated version of the birth extract is marked as Ex. W30. Further the Petitioner examined himself as WW1 and his alleged brothers namely Sri T. Jeevaiah as WW2 and one Mr. T. George as WW3.

7. As against this, the Respondent filed Ex. M1 to M7 and also examined one Mr. Prithiviraj, who is a Senior Clerk in the Personnel department of the Respondent/Management. The learned counsel for the Respondent has taken pains to substantiate that this claim is not maintainable on the ground that the Petitioner is seeking correction of date of birth on the fag end of his service i.e. when he was due to retire from service and the Supreme Court in number of cases held that such action is unwarranted as it will mar the chance of promotion of juniors and prove to be an undue encouragement to other employees to make similar applications at the fag end of the service preventing their retirement, when due and he has also taken pains to submit that after serving for more than 30 years, the Petitioner has applied for correction of date of birth and in such circumstances, the Court should not encourage such petition to correct the date of birth and he also relied on the judgements of Supreme Court in 1996 ILLN 96 BURN STANDARD COMPANY LTD. Vs. DINABANDHU MAJUMDAR AND OTHERS, JT 1996 (3) SC 6 VISAKHAPATNAM DOCK LABOUR BOARD Vs. E. ATCHANNA & OTHERS and 1996 (1) SCJ 326 UNION OF INDIA AND OTHERS Vs. MRS. SAROJ RALA.

8. But, I find there is no substance in the contention of the learned counsel for the Respondent because the Respondent based their claim only on Rule 145(1) of IREC namely Ex. M1 and argued that any alteration regarding date of birth should be done within a reasonable time after joining the service and even taking it for granted that under P.B. Circular No. 193/71 marked as Ex. M5, the procedure for alteration of date of birth has been laid down that 'no alteration in date of birth should be allowed after completion of probation or three years of service whichever is earlier'. Further under Rule 145(3) it is clearly mentioned that 'date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently'. Even in case of illiterate staff, though the General Manager can make alteration in case of clerical error. In this case, the contention of the learned counsel for the Petitioner is not a clerical error and therefore, the Petition is not maintainable. But, the learned counsel for the Respondent has relied on the Respondent's circular No. R.B. No. E(NG) 11/78/BR/12 of 25-10-78 (NR. SN 7235), wherein the Railway Board has decided in order to remove hardship caused by the above amendment to the railway servants who were already in employment on 31-12-71 and who did not take advantage of the provision of the rule regarding alteration of date of birth as it stood before the above amendment, such employees may be given an opportunity to represent against their recorded date of birth up to 31-7-73 and such requests should be examined in terms of rules as they stood before the amendment and the Railway Board had further ordered that no second opportunity shall be given after 31-7-71 and all requests for alteration of date of birth thereafter should be disposed of strictly in accordance with amended rules. Further, it is ordered that the last date fixed for namely 31-7-73 does not apply to representation from illiterate staff and as such representations for alteration of date of birth from illiterate Class IV (Group D) staff can be entertained without any time limit for submitting such claims.' Therefore, if an employee is illiterate, there is no time limit stipulated under the Railways Establishment Rules, Under such circumstances. I find there is no point in the argument of the learned counsel for the Respondent that the Petitioner is seeking correction of the date of birth as the fag end of his service and is not maintainable before any forum.

9. Then the next point to be decided in this case is 'whether the Petitioner has established that his real date of birth is 15-02-1931'. For this, the Petitioner relied on the documents Ex. W1 = W29 = W30 and also birth extracts given to his alleged brothers WW2 and WW3 under Ex. W27 and W28 respectively. Further, the Petitioner has also relied on Ex. W31 which is a Family Members Certificate issued by Mandal Revenue Officer, Duttaluru with regard to relationship of Talluri Ramaiah, Talluri Sriramalu, Talluri George, Talluri Jeevaiah. We will see the documents one by one. Ex. W1, W29 and W30 are alleged birth extract of

the Petitioner. The birth extract Ex. W29 is in Telegu and the translated version of the extract is given by the Petitioner and is marked as Ex. W30, in which the birth of male child was registered to Talluru Yerra Kondaiah on 15-2-31 in which the Mother's name has not been mentioned and the residential place of the father is mentioned as Venganapalem. The Petitioner has given evidence stating that this related to his birth and his father was Talluru Yerra Kondaiah, but his father's name was wrongly mentioned as Kondaiah is the resorts of the neighbour and his birth place was mentioned as Yenganapalayam and he belongs to Hindu community. Learned counsel for the Petitioner further argued that even though the Railway Establishment Rules 145(2)(c) says that in the case of illiterate employee, where the person concerned is unable to state his age, he should be assessed by Railway Medical Officer and the age so assessed should be recorded in the manner prescribed, about the Railway servant being informed of the age so recorded and his confirmation obtained thereto. But in this case the Railway management has not produced any document to show that the date of birth mentioned in the service register of the Petitioner as 24-11-23 has been made by the Railway Medical Officer in the manner prescribed in rules and further they have not established whether the railway servant namely the Petitioner being informed about the age so recorded and above all the Railway management has not established that they have obtained confirmation of the Petitioner about the entries made in the service register. Though from the beginning of the case, the Respondent/Management contended that as per Rule 145 of the Railway Establishment Rules, they have followed the procedure and the age has been determined by the Medical Officer of the Respondent, there is not even an iota of proof to show that they have followed the procedure mentioned under Rule 145(2)(c). Therefore, even for argument sake that the procedure followed by the Railway establishment is under Rule 145, they have not strictly followed the procedure laid down under Rule 145 and therefore, the date of birth mentioned by the Railway management with regard to Petitioner's case is not valid in law. Further, the learned counsel for the Petitioner contended that the Petitioner has produced Ex. W1 = W29 = W30 which is the birth extract given from the birth register, which is a public document and would in ordinary circumstances be bound to have been accepted as conclusive of the matter of birth of a person and the Petitioner has produced authenticated translated version under Ex. 30 which says that the Petitioner was born to Thalluru Yerra Kondaiah and his date of birth is 15-12-1931. Furthermore, the Petitioner has examined his brother namely Talluri Jeevaiah and Talluri George and their birth extracts also were produced by the Petitioner as Ex. W27 and W28 respectively and they were examined before this Tribunal who have established that the Petitioner is their eldest brother and they born to Talluri Yerra Kondaiah. Under such circumstances, it cannot be contended that the

Petitioner's date of birth is only 24-11-1923 and not 15-2-1931.

10. As against this, the learned counsel for the Respondent argued that though the Petitioner alleged that he has examined his alleged brothers namely WW2 and WW3, the evidence given by these persons are contradictory. First of all, the Petitioner alleged that he is a Hindu, but both the witnesses who alleged to have been brothers of the Petitioner are belong to Christianity and there is no satisfactory evidence before this Tribunal how two different religious persons have born to the same father. Further, in all the registers pertaining to the Petitioner, it is mentioned that Petitioner's father is Mr. Kondaiah and he has signed his signature as only K. Sreeramulu. As against this, the Petitioner's witness namely the alleged brothers have stated that their father was Talluri Yerra Kondaiah who belongs to Christianity. Further the birth place alleged to be the witnesses namely WW2 and WW3 is Venganapalem, but the birth place of the Petitioner mentioned in the records maintained by the Registrar is only Yenganapalem. Further, the Petitioner has not established before this Tribunal that Venganapalem and Yenganapalem are one and the same place and called in different names. Not merely that the Petitioner's alleged brother Mr. Jeevaiah has stated in the proof of affidavit that he was born on 1-6-1950 at Venganapalayam and his eldest brother namely the Petitioner Sreeramulu born on 15-2-1931 at their village. In the cross examination, he has stated that he belongs to Christian community and he does not know whether he was a converted Christian or born Christian and he further says that they are six brothers namely first one is Sreeramulu (Petitioner), second is George, third is Chinnaiah, fourth is Yessaiah and fifth is Jeevaiah himself. But, subsequently he has changed his version saying that they are five brothers and one sister and their sister died. But, he has also admitted that in his records his father's name is mentioned as Talluri Pedda Kondaiah. Under such circumstances, the Petitioner has to substantiate his claim by saying whether his family belongs to Hindu religion or Christian religion and whether his father's name is Kondaiah or Thallooru Yerra Kondaiah or Thallooru Pedda Kondaiah. But the Petitioner has not established this fact with any substantial evidence. Further, even though WW2 and WW3 have stated that the Petitioner is the eldest among their brothers, the Petitioner has not established how in the document Ex. W31 namely Family Members Certificate, one Mr. Talluri Ramaiah was mentioned as eldest male member of the family and Mr. Talluri Pedda Kondaiah and Smt. Nagamma, Wife of Mr. Pedda Kondaiah of Venganapalem, whose age was mentioned as 75. Further, the witness Mr. Jeevaiah has mentioned that five brothers are namely Sreeramulu, George, Chinnaiah, Yessaiah and Jeevaiah and how Mr. Ramaiah's name is mentioned in the Family Members Certificate and in what way Mr. Ramaiah is related to the family of the alleged Mr. Jeevaiah and Mr. George.

11. The learned counsel for the Petitioner contended that merely a wrong mention of father's name in the records and merely the name of community has been mentioned in the records as Hindu or Christian, it cannot take away the right of the Petitioner to establish that the birth extract produced by him belongs to him.

12. But, I find there is no substance in the contention of the learned counsel for the Petitioner because no doubt Ex. W1 = W29 = W30 is a birth extract which is a public document, I find the Petitioner has to establish that this public document relates to him and further to establish that Ex. W27 and W28 belong to his alleged brothers namely Mr. Jeevaiah and Mr. George. Under such circumstances, the Petitioner who has not substantiated his claim that this document Ex. W1 = W29 = W30 belong to him, this Tribunal cannot come to a conclusion that the date of birth mentioned in the document belongs to the Petitioner. Merely because WW2 and WW3 have stated that the Petitioner is the eldest brother, this Tribunal cannot come to a conclusion that the Petitioner was born to the alleged Talluri Yerra Kondaiah that too in the year 1931. Further, on going through the documents Ex. W27 and W28 birth certificates, it is seen that the typed letters "1-6-1950 and Name of Father Talluri Pedda Kondiah" and the date of Registration mentioned in the document have been erased and new letters and new words have been overtyped in that places. Therefore, I doubt whether these documents are genuine documents or not.

13. Then again the learned counsel for the Respondent contended that the community mentioned in the records of the Petitioner as Madiga (Chuckliyar) and the Petitioner has clearly stated that he belongs to Madiga community, which is a Chuckliyar community. He further stated that Sri Jeevaiah and Sri George belongs to Thotty community which is a different community. Though both these communities are Scheduled Caste, they are different communities and the learned counsel for the Respondent argued that even in this community also there are differences among the Petitioner and the witnesses namely WW2 and WW3. Under such circumstances, it cannot be contended that the Petitioner has established that his date of birth is 15-2-1931 and therefore, his claim is not maintainable before this Court.

14. I find much force in the contention of the learned counsel for the Respondent because as I have already stated that the Petitioner has not established that Ex. W1 = W29 = W30 belongs to him and he also has not established through evidence of WW2 and WW3 that they are his our brothers and their birth extracts are Ex. W.27 and W28 respectively. Furthermore, the Petitioner has not established that Ex. W31 belongs to his family and the four names mentioned in that document are members of his family. Therefore, I find this point against the Petitioner.

Point No. 2	Ex. No.	Date	Description
The next point to be decided in this case is to what relief the Petitioner is entitled?	W17	01-08-88	Xerox copy of letter from ALC (Central) to Petitioner.
15. In view of my foregoing findings, I find the Petitioner is not entitled to any relief as claimed by him.	W18	02-09-88	Xerox copy letter from Petitioner to ALC (Central).
(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th May, 2004.)	W19	06-01-89	Xerox copy of letter from ALC (Central) to Petitioner.
K. JAYARAMAN, Presiding Officer	W20	08-05-89	Xerox copy of letter from ALC (Central) to Petitioner.
Witnesses Examined:—	W21	17-04-90	Xerox copy of the order in CMP No. 10690/87.
For the I Party/Workman : WW1 Sri K. Sreeramulu	W22	21-06-93	Xerox copy of failure of conciliation report.
: WW2 Sri T. Jeevaiah	W23	20-07-94	True copy of the letter from Ministry to Petitioner.
: WW3 Sri T. George	W24	03-06-97	Xerox copy of the order of CAT in O.S. No. 1423 of 1994.
For the II party/Management : MW1 Sri H. Prithiviraj	W25	03-09-02	Xerox copy of order in W.P. No. 9947/97.
Documents Marked:—	W26	26-11-01	Xerox copy of Medical certificate of Petitioner.
For the I Party/Workman :	W27	24-11-03	Birth Certificate of Mr. Jeevaiah
Ex. No. Date Description	W28	24-11-03	Birth certificate of Mr. T. George.
W1 31-01-81 Xerox copy of birth extract of the Petitioner.	W29	31-01-81	Original birth extract issued by Taluk Officer, Udayagiri.
W2 07-02-81 Xerox copy of birth extract of the Petitioner (Translation)	W30	28-12-01	English translation copy of Ex. W29 issued by Mandal Revenue Officer.
W3 12-02-81 Xerox copy of representation given by Petitioner.	W31	20-01-04	Family Members Certificate issued by Mandal Revenue Officer.
W4 13-11-81 Xerox copy of representation given by Petitioner to General Manager of Respondent.	For the II Party/Management:—		
W5 28-11-81 Xerox/True copy of internal correspondence of respondent.	Ex. No.	Date	Description
W6 28-01-82 Xerox copy of representation given by Petitioner.	M1	1959	Extract of Indian Railways Establishment Code Vol-I.
W7 27-04-82 Xerox copy of representation given by Petitioner to Ministry.	M2	Nil	Extract of service particulars of Petitioner.
W8 18-08-82 Xerox copy of representation given by Petitioner.	M3	06-01-81	Xerox copy of statement showing details about retirement of C & W staff.
W9 05-08-83 Xerox copy of the judgement in O.S. No. 8766/81.	M4	12/23-02-81	Xerox copy of representation given by Petitioner to Sr. DPO.
W10 22-02-84 Xerox copy of judgement in A.S. No. 439/83.	M5	Nil	Xerox copy of P. B. Circular No. 193/71.
W11 03-04-85 Xerox copy of letter from Govt. Hospital, Cuddapah to Petitioner.	M6	24-09-87	Xerox copy of enquiry proceedings & findings.
W12 16-09-85 Xerox copy of the representation of Petitioner to Ministry.	M7	Nil	Extract from service book of Sri. T. Jeevaiah.
12-02-87 Xerox copy of the order in S.A. No. 1999 of 85.			
W14 10-07-87 Xerox copy of the order in CMP No. 10690 of 1987 in S.A. 1990 of 1987.			
W15 18-11-87 True copy of letter from Respondent to Petitioner.			
W16 11-04-88 Xerox copy of 2A petition filed by the Petitioner.			

नई दिल्ली, 27 जुलाई, 2004

**का.आ. 2045.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-II, नई दिल्ली के पंचाट (संदर्भ सं. आई डी-106/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-07-2004 को प्राप्त हुआ था।

[सं० एल-12012/174/92-आईआर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 27th July, 2004

**S.O. 2045.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. 106/92) of the Industrial Tribunal/Labour Court No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 27-07-2004.

[No. L-12012/174/92-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT NO. II, NEW DELHI

Presiding Officer : R. N. RAI. I. D. No. 106/92

In the matter of :

Man Mohan Sharma

Versus

State Bank of India

#### AWARD

The Ministry of Labour by its letter No. L-12012/174/92/IR (B-3) Central Government Dt. 30-11-1992 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the the management of the State Bank of India in treating the workman Shri Man Mohan Sharma, permanent clerk, as voluntarily retired from service of the Bank w.e.f. 3-11-1990 on account of his alleged absence from duty without leave, is legal and justified? If not, to what relief(s) the workman is entitled to?”

The claimant has filed statement of claim. In his statement of claim he has stated that as the workman joined the Bank service as Godown Keeper on 10-08-1970 at Dehradun Branch. He was transferred to Meerut in 1975 from Dehradun. He was transferred back to Dehradun in 1978 and had been working there since then.

That he had been holding the position of Union Secretary at Dehradun Branch for the last several years and in that capacity he has been challenging the arbitrary, malafide and illegal activities of the management. He has also taken leading part in organizing strike demonstration and agitation carried out by the union during last all India strike and agitation held in 1989. The management became prejudiced and biased towards him on account of his leading role in the legitimate trade union activities/strike/agitations. They hatched a conspiracy to harass and victimize the workman by way of illegal and malafide transfer, non-sanction of sick leave due and illegal termination of services under the garb of voluntary vacation.

That the workman fell sick on 7th June, 1990 and sent application to the Manager (C & I), Dehradun Main Branch for two days leave on account of sickness.

That he remained further sick and continued on sick leave upto 10-11-1990.

That he has been sending his leave applications to the Manager (C & I), State Bank of India, Main Branch, Dehradun regularly alongwith relative medical certificates.

That after he was recovered he reported for duty at Dehradun Branch on 10th December, 1990 and he was directed to report for duty at Mobhawala branch. He also went there but the Branch Manager, Mobhawala also did not allow him to join duty. He immediately sent letter dated 10-12-1990 to the Branch Manager, State Bank of India, Mobhawala, Dehradun by registered post vide receipt No. 1735 dated 10-12-1990, Subhash Nagar, Dehradun Post Office. The copy of the above letter is Annexure 'A'.

The workman did not receive any communication from the bank in regard to the rejection of his leave application sent in time alongwith medical certificates. That the question of rejection of his leave did not arise as the employee was sick and he had to his credit 9 months sick leave on full pay, 6 months privilege leave and huge unavailed casual leave to his credit.

The workman for the first time received a communication from the Regional Manager, Region-I, vide his letter No. R-I/437 dated 21-12-1990, that the bank has voluntarily retired him from the Bank's service due to absence from his duty. The employee did not receive any communication from the Bank in this regard prior to the above said letter although he had been sending regularly leave applications on medical grounds alongwith medical certificates—marked Annexure 'B'.

He submitted an appeal against the above referred illegal order of termination of services issued by the Regional Manager, Region-I to the Appellate Authority—marked Annexure 'C' but his appeal was rejected by the Dy. General Manager arbitrarily without considering the issues raised by the workman.



That the Union made number of representations to reinstate the workman with back wages but all the requests of the Union were turned down by the management. In the circumstances the union raised conciliation proceedings before the Assistant Labour Commissioner and that was rejected and the matter was referred to this tribunal. The management had acted in violation of the rules of Natural Justice, provisions of the Sastry Award and Desai Award and the Bipartite Settlement.

That even if it is presumed that the workman absented himself without leave or over stayed leave even than the said act of the workman amounts only to a minor misconduct under para 521(6)(7) of the Sastry Award for which maximum punishment of stoppage of increment for a period of 6 months could be awarded. In para 521(10) of the said award no action can be taken unless the employee is given a charge sheet clearly stating therein the circumstances appearing against him and the Authority concerned has to take into consideration the previous record of the employee.

That under the Industrial Disputes Act, 1947 all termination spells out retrenchments and no order of retrenchment can be passed, unless the workman has been paid or tendered the retrenchment compensation and notice salary as provided in the Industrial Disputes Act, 1947. It has been so held by the Hon'ble Supreme Court in the case of State Bank of India versus Sundermony and the Hindustan Steel case.

That in case of absence, no power is vested with the management to pass an order of voluntary vacation in case of absence of the workman unauthorisedly. The question of unauthorised absence does not arise as the workman was on sick leave and has sent regularly applications alongwith sick leave certificate. As such, the workman deserves to be reinstated with full back wages in service w.e.f. 3-11-1990.

The management respondent has filed written statement. It has been submitted that due to exigencies of work, it was decided to transfer him to Bhiri Branch, Distt. Chamoli vide order dt. 09-06-1990 but he did not report for duty at the said branch. The General Secretary, Shri J. N. Kapoor took up the matter of his transfer with the General Manager, State Bank of India, New Delhi vide his letter dt. 12-06-1990. Thereafter on the written request of Shri P. P. Trikha, President of State Bank of India, Staff Association, Delhi Circle as also on the request of the local representative of the workman Shri H. N. Khanna, Dy. General Secretary of the association as also that of the employee concerned, the order was changed from Bhiri to Mobhawala Branch which is one of the local branches in Dehradun vide order dt. 11-07-1990.

That instead of joining duties at Mobhawala branch, the employee concerned had ever since been resorting to dilatory and evasive tactics till 9th of December, 1990. He did not report for duty nor did he even submit his leave application to his controlling authority i.e. the Branch Manager of the branch where he was transferred. In view of his long absence, the management was compelled to invoke the provisions of clause 16th of 4th Bipartite Settlement which govern such matters which he has been deemed to have been retired voluntarily from the bank's services w.e.f. 3-11-1990. The contents of the rest of other paras have been denied by the respondent. It is settled law that refusal amounts to a good service. In A.I.R. 1961, Calcutta page 439, it was held that if a registered cover is refused by the addressee then it amounts to delivery of letter. Several representations were made against his transfer and he has filed writ before the Hon'ble High Court, Allahabad in the month of October, 1990 challenging his transfer orders which is pending in the Hon'ble High Court at Allahabad. Both the transfer orders dt. 09-06-1990 and 11-07-1990 were filed by the workman alongwith writ petition. Both the transfer orders were issued on the address which has been provided by the workman with the bank on the service sheet of the workman. His permanent address can be changed only on his representation. He had sent letters to the Branch from where he has been transferred so his letters were returned with the endorsement that he should make all communications to the Controller of the transferee branch. He was advised by the Branch Manager that since the workman has been deemed to have voluntarily retired, as per clause XVI of the IV Bipartite Settlement w.e.f. 3-11-1990 and therefore, he is no longer an employee of the bank and cannot be allowed to join the Bank. The above letter of voluntary retirement was sent at his address viz. 20, Khurbura Mohalla, Dehradun as the address given by him in the letter dated 10-12-1990. The contents of the rest of the paragraphs of the statements of claim have been denied.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that the workman has filed affidavit and in his affidavit, he has specifically mentioned that his PPF account was opened on 2-11-1987 vide No. 1501 by him at State Bank of India, Dehradun Main Branch where he was posted and in the said record of the bank, his address has been recorded as 20, Khurbura Mohalla, Dehradun. It has been stated in the affidavit that he has purchased a Yamaha Motor Cycle Reg. No. UAW 1136 in April, 1988. The said vehicle was purchased by him after availing loan from SBI, Dehradun Main Branch under the staff scheme and all the papers and documents were pledged to the bank. The lien of SBI was recorded in the Regn. Book of the vehicle.

That the bank issued me an identity card under the rules on 20-1-1990. The said Identity Card has been signed by Shri S.C. Malik, the then Branch Manager, Dehradun Main Branch wherein my address has been recorded as 20, Khurbura Mohalla, Dehradun-248 001.

That the last letter sent on 27-10-1990 was sent at his correct address, 20, Khurbura Mohalla, Dehradun but the rest of the letters were sent on his old address. At the time of his appointment, he was living at 14, Khurbura, Dehradun. The substantial question is whether the letters were sent to his correct address or not. He has filed letters and the bank has also given him letters vide MW A/1 which discloses that the workman was called to explain as to why he went to Regional Manager, Region-I, Dehradun on 29th March, 1990 at 1.15 PM alongwith Shri M.M. Sethi and others to meet him.

The workman has sent his reply in which he has stated that the management is indulging in unfair labour practice and trying to victimize the applicant workman. Annexure IV shows that he has sent leave applications till 31-7-1990 to the Branch Manager, State Bank of India, Dehradun. Annexure V also is his leave application sent to the Branch Manager and in this application, the address of the workman has been given as 20, Khurbura Mohalla, Dehradun. Annexure VI, VII, VIII and IX, all leave applications sent to the Branch Manager under Registered Post. Annexure XII is a reminder letter sent to the Bank by Registered Post. Annexure XIII to XVIII are medical certificates sent to the Branch Manager. In his cross-examination also, the workman has stated that when he joined his address was 14, Khurbura Mohalla, Dehradun but in 1977 he shifted to 20, Khurbura Mohalla, Dehradun and he has asserted that he did not file any writ petition in Hon'ble High Court.

It was submitted from the side of the workman that the workman was ill and he had sent several letters to the Branch Manager but he was not intimated as to what happened to his medical certificates. He did not receive from the bank any letter refused by the bank. It was further submitted that all the correspondence were made at 14, Khurbura Road, Dehradun and the letters returned with the endorsement left but the bank still sent letters on that address so that the workman applicant may not come to know all the letters when he had specifically mentioned his address in his letter and his application for medical leave. His address is 20, Khurbura Mohalla, then the question does not arise to send certain letters to 14, Khurbura Road. The Regional Manager intentionally and with malafide reasons sent the notices on wrong address as he was personally biased towards him and threatened him that they would get him transferred/charge sheeted, terminated if he does not leave Trade Union activities.

That the envelope has been filed by the management as document page No. 102. The notice was received by the bank unserved. The termination letter

was sent on the wrong address and it was returned with the endorsement that no such person was residing there. As such, neither the notice of 30 days for joining duty nor the notice of voluntarily retirement has been served on the workman applicant. The management has to get the notices served. The advertisement in the newspaper and at the public place and pasting of the notice at the public places would not amount to service of the notices as the workman was ill and he cannot be presumed to go through the daily newspaper and visit the public places. The notice was published in Gujrati Newspaper. It ought to have been served personally on him. In this connection, my attention was drawn to AIR 1961-SC 1159. I have gone through the citations. It appears that from these citations that in case a notice is returned with the endorsement "refused" then it may be presumed that the notice has been served but in this case there is endorsement on the registered notice that the addressee has left the place, in that case, only publication in Gujrati newspaper cannot be deemed to be sufficient service on the workman applicant.

My attention was drawn to 58 (1995) Delhi Law Times 762, it has been held that under the State Bank of India Service Rules, 1975, rule 92 unauthorised absence, fore feature of appointment, leave without obtaining written sanction from the authority concerned is unauthorized absence and it amounts to misconduct so according to the decision of the Hon'ble Delhi High Court, if an employee of SBI is on leave without sanction, it amounted to misconduct. In case, the workman applicant was on leave without sanction, and committed misconduct, then an enquiry should be held before he was voluntarily retired so the above law is not applicable in the facts and circumstances of the case. The judgement by the Hon'ble Supreme Court in 1998 SAR (Civil) 533 is regarding retrenchment. This case is not of retrenchment but of voluntary retirement so this case is not applicable in the facts and circumstances of this case.

1993 SCC L&S-723 is regarding 25F, 55FF and 25FFF of the ID Act. This law is also not applicable because in this case, there is no retrenchment of the workman applicant. The workman has been compulsorily retired due to more than 90 days absence in view of para 16 of the Bipartite Settlement. According to para 16 of the Bipartite Settlement, if an employee absents without notice for 90 days, 30 days notice will be served on him. Even if after the service of 30 days notice, he does not report for duty, then the management may presume that he is employed elsewhere and he has no intention to join duty. In that case, the management has got right to proceed further and set up enquiry or to retire the person compulsorily. In the present case, the notice has been sent at 14, Khurbura Mohalla, Dehradun whereas the address of the employee on his identity card is 20, Khurbura, Mohalla and even in the medical certificate

applications, he has mentioned his address as 20, Khurbura Mohalla. In his loan application also, he has mentioned his address as 20, Khurbura Mohalla. As such, when 30 days notice was received back with the endorsement that the workman was not available or he has left the place or he did not meet with the postal servicemen, then it was the duty of the management to get another notice of 30 days served on him.

In view of para XVI of the Bipartite Settlement, regarding voluntarily cessation of employment by the employees, it is mandatory that 30 days notice after 90 days absence must be served and in case after service of the 30 days notice, the workman does not satisfy the management that he has not taken up another employment or avocation and that he has no intention of not joining the duties, the employee will be deemed to have voluntarily retired from service on the expiry of the said notice. According to this, paragraph of the IV Bipartite Settlement, there are two conditions which must be satisfied before cessation of employment by the employees, the first condition is that the workman applicant should be absent without notice and the second condition is that after 90 days absence without notice, a notice of 30 days for joining duty should be sent to him. In this case, it cannot be said that the workman applicant was absent without notice as he had sent several letters to the Branch Manager. In case he was transferred from that branch, that letter ought to have been referred to the Branch in which he was posted but his letters of request for medical leave were neither accepted nor refused and he was given no intimation. As such, he cannot be deemed to be absent from duty without notice. The second important ingredient of this para is that 30 days notice should be served and in case, the management comes to the conclusion that the workman has no intention to join or he has taken up some other avocation, then the bank can compulsorily retire that workman. In this case, neither the 30 days notice has been served on the workman applicant nor he was absent for 90 days without notice. He had all along been sending medical applications and he was not communicated that his medical certificates were not accepted so he cannot be deemed to be on unauthorized leave.

It was submitted by the management that the doctor has been examined and the medical leave certificates cast some doubt. Even if the medical certificate is invalid, it will be presumed that he has been sending applications for medical leave but the same was neither accepted nor refused and no communication was made to him. For the arguments sake, if it is accepted that he is in the knowledge of both the transfers and he did not report to duty, even then he cannot be deemed to be absent without notice as he had all along been sending notices to the bank in which he was working prior to his taking medical

leave. He was sending medical leave so it cannot be said that he was relieved from the branch or his previous branch office. According to the management, it amount to grave misconduct and in case it amounts to grave misconduct, then an enquiry ought to have been conducted in this case. The law cited by the management is not applicable in the facts and circumstances of this case. For inflicting any punishment, an enquiry is necessary. In this case, no enquiry has been held and para XVI of the Bipartite Settlement is not applicable in this case as the management has failed to establish that all the notices were sent on his correct address. So service cannot be presumed and the order of compulsory retirement is not valid as the workman applicant is not absent without notice and 30 days notice has not been served on him. As such, he deserves reinstatement from the date of voluntarily retirement.

The reference is replied thus :—

The action of the management of the State Bank of India in treating the workman Shri Man Mohan Sharma, permanent clerk, as voluntarily retired from service of the bank w.e.f. 3-11-90 on account of his alleged absence from duty without leave, is neither legal nor justified. The workman deserves to be reinstated with full back wages within one month from the date of the publication of the award.

The award is given accordingly.

dt. 08-07-2004.

R.N. RAI, Presiding Officer

नई दिल्ली, 27 जुलाई, 2004

**का.आ. 2046.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हैवी व्हिकल फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 52/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-07-2004 को प्राप्त हुआ था।

[सं० एल-14012/16/2002-आईआर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 27th July, 2004

**S.O. 2046.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 52/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Heavy Vehicle Factory and their workman, which was received by the Central Government on 27-07-2004.

[No. L-14012/16/2002-IR (DU)]

KULDIP RAI VERMA, Desk Officer.



**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, CHENNAI**

Friday, the 18th June, 2004

**Present : K. JAYARAMAN,  
Presiding Officer****INDUSTRIAL DISPUTE NO. 52/2002**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Heavy Vehicle factory and their workman.)

**BETWEEN**

Sri G. Thiruvellaiah : I Patry/Petitioner

**AND**

The Senior General Manager, : II Patry/Management  
Heavy Vehicle Factory, Avadi,  
Chennai.

**APPEARANCE :**

For the Workman : M/s. A. Mani &  
S. Chakravarthy,  
Advocates

For the Management : Mr. K. M. Venugopal,  
ACGSC

**AWARD**

The Central Government, Ministry of Labour vide Notification Order No. L-14012/16/2002-IR(DU) dated 24-05-2002 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of Heavy Vehicle Factory, Avadi in awarding the penalty of removing Shri G. Thiruvellaiah from service w.e.f. 19-09-1998 is just and fair? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 52/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner joined the service of the Respondent in the year 1971 as Mali (Gardner). Subsequently, he had been employed in the factory under shift system. He used to bring his meals from his home and he kept

aluminium plates to protect the food in the box and he used such aluminium plates for more than a year which he got the same from outside. While so, to his shock and dismay on 25-11-1996 when he was coming out from the factory to security gate for going out, he was asked to open the box by the security namely L/NK S.A.K. Pillai. Though the Petitioner has explained as to why he has kept aluminium plates for the past one year from the date, without listening to his reason, he was brought to the security room where the security chageman Mr. K.R. Ramalingam, CH/M II threatened him and got his signature on papers. He was afterwards served with a charge memo. Even though he has submitted his explanation, a farce domestic enquiry was conducted and held against him. In that enquiry, he was not allowed to participate in the enquiry effectively, thereby denying reasonable opportunity to defend himself in the enquiry. Further, the main witnesses were not examined in that enquiry. The findings of the Enquiry Officer was perverse and it was submitted to the respondent without based on any evidence much less any legal evidence. The Disciplinary Authority had also approached the matter in a biased and vindictive manner. The Petitioner's request was also not considered and he was not permitted to recall the Respondent's witness Mr. S.A.K. Pillai for further cross examination. Under Section 11A of the Industrial Disputes Act, 1947 the Industrial Tribunal has got every power to reappraise the evidence and materials available on record and can come to a different conclusion than that of the management and can modify, alter or award lenient punishment to Petitioner. Hence, for all these reasons, the Petitioner prays that an award may be passed to reinstate him into service with back wages, continuity of service and all other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is not an industry under the definition of Industrial Disputes Act, 1947. In other words, the Respondent is doing its statutory duties under Constitution of India and therefore, this Tribunal have no jurisdiction in this matter and is not an appropriate forum for the litigant. Further, the Respondent factory is not engaged in commercial or industrial activities and it cannot be described as an industry or commercial enterprise and it is not the object of Respondent to produce and distribute finished products to satisfy the wants and needs of consumer community. The Central Administrative Tribunal alone has jurisdiction to decide the legality of any order passed by the Respondent factory. On 25-11-1996 the Petitioner was found carrying some heavy items in his bag noticed by Sentry L/nk S.A.K. Pillai, Defence Security Corps and the matter has been reported to the in-charge attending the mustering duty on that day. Based on his report, Sri K.R. Ramalingam, chageman, who was on mustering out duty took the individual to search room.

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and searched the Petitioner in the presence of the orderly officer, gate duty officer and security officer and then the bag of the Petitioner was opened in which four aluminium plates size 273 mm×12mm×5mm weighing approximately 1700 gms were found concealed. Therefore, the statement of the Petitioner was recorded in front of the orderly officer on duty and the contents were explained to the Petitioner by orderly officer. The allegation that the Petitioner's statement was obtained under threat is false. Based on the report dated 26-11-96 the Petitioner was placed under suspension and a charge sheet under Rule 14 of CCS (Classification, Control & Appeal) Rules, 1965 was issued to him for the offence of attempted theft to Govt. property. Since the Petitioner denied the charges, an enquiry was ordered to enquire into the charge framed against the Petitioner. The Enquiry Officer after due enquiry, has given a finding that the charges framed against him was proved and the Petitioner was called for to make representation or submission and after perusing the submissions, the punishment was imposed on the Petitioner. The enquiry is just and fair and was also conducted as per provisions of Rule 14 of CCS (Classification, Control & Appeal) Rules, 1965. The charges namely attempted theft of Govt. Property and the second charge that the Petitioner was imposed with penalties two times for various offences earlier and the Petitioner failed to take corrective measures even after being imposed with penalties in the past were proved against him and established against him. Even in the appeal, the Petitioner has deposed that the incident had happened due to his ignorance and also requested to reduce the penalty to the extent of compulsory retirement. Therefore, it is clear that he has admitted his guilt. Even in the mercy appeal filed by him, the same has been rejected after duty consideration. Since the Petitioner has committed serious misconduct, he has to bear with consequences arising out of it and cannot complain of the hardships faced by him. Hence, for all these reasons, the Respondent prays that the claim of the Petitioner may be dismissed with costs.

5. In these circumstances, the points for my consideration are—

(i) "Whether the action of the Respondent/Management in awarding the penalty of removing the Petitioner from service w.e.f. 19-09-1998 is just and fair?"

(ii) "To what relief, the Petitioner is entitled?"

Point No. 1:—

6. In this case, the charge framed against the Petitioner are two in nature. The first charge is that he had attempted to steal the Government property on 25-11-1996 and secondly, that even after two prior punishments imposed on him, he has not corrected himself and therefore, an explanation was called for from the Petitioner and in the domestic enquiry conducted, the

charges framed against him were found proved and he was given the punishment of dismissal from service. The Petitioner states that the charges are whimsical and he has not attempted to steal any Govt. property from the Respondent/Management and the allegation of theft, is only a false one. He further contended that he usually brings his food from his house and he also keeps aluminium plates to protect food in the box and while he was coming out of the factory on 25-11-1996, he was asked to open his bag by the security and though he explained as to why he had kept the aluminium plates for the past one year, without listening to his statement, he was brought to the security room and the security chageman Mr. K.R. Ramalingam threatened him and got his signature on papers which were filled up subsequently and a farce enquiry was conducted and no opportunity was given to him to defend his case and finally, the punishment of dismissal was imposed on him without any reasonable grounds and the findings of the Enquiry Officer are perverse and without basing any evidence much less any legal evidence.

7. In this case, the Petitioner examined himself as WW1, but he has not marked any document and on the side of the Respondent, though the said security officer Mr. K.R. Ramalingam was examined in chief, but he has not appeared for cross examination of the Petitioner's advocate and therefore, the Respondent side has been closed and since, he has not been cross examined, his evidence cannot be looked into at this stage. Even though nine documents were marked on the side of the Respondent through MW1, since he has not appeared for cross examination, his evidence cannot be taken into account and therefore, even these documents filed by the Respondent cannot be looked into.

8. At this stage, this Tribunal looked into the case from the allegations in the Counter Statement of the Respondent. The Respondent contended that the Petitioner has kept aluminium plates along with his Tiffin box. In the evidence, the Petitioner has deposed that he has kept only one aluminium plate and it was bought by him one and half years prior to the incident, its worth was only Rs.6/- or Rs.7/- and he has purchased the same from outside market. But, in the claim statement, he has stated that he has kept aluminium plates i.e. more than one plate with the Tiffin box. But, as against this, the Respondent contended that at the time of the incident, four aluminium plates have been recovered from the Petitioner and they were in the size of 273 mm × 12 mm × 5 mm weighing approximately 1700 grams i.e. more than 1.5 kgs. Though the Petitioner has stated that he has kept only one aluminium plate and that too he has purchased from outside market, the Respondent in its Counter Statement has clearly stated that at the time of the incident, the chageman who was mustering out duty has searched the bag of the Petitioner and found four aluminium plates and these plates cannot be used for the purpose of taking

food. Under such circumstances, I find there is contradiction in the statements of the Petitioner in his Claim Statement and also in the oral evidence and there is no proof produced before this Tribunal that the Petitioner has kept only one aluminium plate and that too he has purchased from outside market. On the other hand, when a workman coming out of the work spot, the security must have found that he has kept four aluminium plates, which cannot be used for the purpose of taking food, under such circumstances, the story given by the Petitioner in his Claim Statement and also in oral evidence cannot be believed at all.

9. Then the next question to be decided is —

“Whether the domestic enquiry conducted by the Respondent is just and proper?”

Though, in his Claim Statement the Petitioner has alleged that the domestic enquiry has not been conducted in a just and proper way, and he has not given reasonable opportunity to defend his case, during the oral evidence, he has not disputed anything about the domestic enquiry. Further, in this case the Respondent has stated that co-employee was appointed to defend the Petitioner's case and he has participated fully in the domestic enquiry and therefore, the enquiry was conducted as per CCS (Classification, Control & Appeal) Rules and therefore, it cannot be questioned by the Petitioner as not conducted in a just and proper way. I find much force in the contention of the Respondent and therefore, I find the domestic enquiry was held in a just and proper way.

10. The next issue contended by the Petitioner is, under Section 11A the Industrial Tribunal has wide power to re-appraise the evidence and materials available on record and therefore, the Tribunal has to come to a conclusion that the punishment imposed is harsh and it has got every power to modify the punishment of dismissal into lenient punishment. But, I find there is no point in the contention of the learned counsel for the Petitioner because in this case, the Respondent's factory is an Ordinance factory in which products are manufactured for Ministry of Defence, Government of India and therefore, the Petitioner who has stealthily removed the four aluminium plates from the factory and by this act he has made an attempt of theft of the properties of Govt. and that of the properties of Defence and therefore, I find the punishment imposed cannot be considered as harsh or punitive. Under such circumstances, I find this Tribunal cannot interfere in this case with regard to quantum of punishment imposed on the Petitioner.

11. Though the Respondent in its Counter Statement contended that this Tribunal has got no jurisdiction and it is not an appropriate forum for the litigant namely the Petitioner and the Respondent factory is not engaged in commercial or industrial activities and it cannot be

described as an industry or commercial enterprise and therefore, the Petitioner is not entitled to any relief, I find neither the Respondent counsel nor the Respondent produced any material document to support this contention. Further, the Respondent has not produced any Notification to prove their contention that provisions of Industrial Disputes Act, 1947 are not applicable to the Respondent factory. Under such circumstances, I find there is no point in the contention of the Respondent. Any how, the Petitioner has not established before this Tribunal that the domestic enquiry conducted by the Respondent is not just and proper. Further, the Petitioner has not established that he has not stealthily removed the four aluminium plates from the Respondent factory. Therefore, I find this point against the Petitioner.

Point No. 2:—

The next point to be decided in this case is to what relief the Petitioner is entitled?

12. In view of my foregoing findings, I find the Petitioner is not entitled to any relief as claimed by him. No Costs.

13. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 18th June, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party/Workman : WW1 Sri G. Thiruvellaiah

For the II Party/Management: MW1 Sri K.R. Ramalingam  
- Not considered.

Documents Marked:—

For the I Partys/Workman : Nil

For the II Party/Management: All the 9 documents are marked but not considered

Ex. No.	Date	Description
M1	25-11-96	Xerox copy of the written statement given by Petitioner
M2	25-11-96	Xerox copy of the letter of K.R. Ramalingam to Security Officer
M3	25-11-96	Xerox copy of the letter from SAK Pillai to Senior Security Officer
M4	26-11-96	Xerox copy of the confidential note of Security Office
M5	26-11-96	Xerox copy of the suspension order issued by General Manager
M6	19-12-96	Xerox copy of the memo issued to Petitioner
M7	Nil	Xerox copy of the enquiry proceedings
M8	09-10-99	Xerox copy of the mercy appeal preferred by Petitioner
M9	29-02-2000	Xerox copy of the order of Respondent in revision petition

नई दिल्ली, 29 जुलाई, 2004

**का. आ. 2047.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नै के पंचाट (संदर्भ संख्या 137/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-04 को प्राप्त हुआ था।

[सं. एल-12011/141/2003-आईआर (बी-11)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 29th July, 2004

**S.O. 2047.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 137/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workman, which was received by the Central Government on 27-7-04

[No. L-12011/141/2003-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 26th May, 2004

**Present :** K. Jayaraman,  
Presiding Officer

**INDUSTRIAL DISPUTE NO. 137/2003**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Andhra Bank and their workman)

#### BETWEEN

The General Secretary,  
Andhra Bank Employees'  
Union, Chennai.

: 1 Party/Claimant

#### AND

The Chief Manager,  
Andhra Bank, Z.O.  
Chennai.

: 11 Party/Management

#### Appearance :

For the Claimant : Mr. L. R. Gopalakrishnan  
Authorised  
Representative

For the Management : Mr. S. Veeramani,  
Authorised  
Representative

#### AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-12011/141/2003-IR(B-II) dated 11-09-2003 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Andhra Bank in imposing the punishment of stoppage of annual increment for the year 2002 for a period of 6 months without cumulative effect in respect of Shri C. Kirubanandham, Clerk is justified? If not, what relief he is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 137/2003 and notices were issued to both the parties and both the parties entered appearance through their Authorised Representatives and filed the Claim Statement and Counter Statment respectively.

3. The allegations in the Claim Statement of the Petitioner are briefly as follows :—

The Petitioner Union espousing the cause of Sri C. Kirubanandam, clerk, who is at present working at Avadi branch of the Respondent/Bank. The allegation against the concerned employee, is, the Deputy General Manager of the Zone on 28-7-2001 phoned to the office of the concerned employee and the concerned employee alleged to have been acted in an indisciplined manner and indifferent behaviour over the phone. Then the concerned employee was called for an explanation and the concerned employee apart from denying the allegations required the Respondent/Bank to make copies of complaint in this regard. But, instead of giving the copies, the Respondent/Bank initiated disciplinary proceedings serving charge sheet invoking clause 19.7(j) of the Bipartite Settlement alleging that he had committed an act of indiscipline and indifferent behaviour over phone without exhibiting decency, decorum and etiquette etc. The charge sheet did not contain any information pertaining to the procedure to be followed by the Disciplinary Authority. For this the concerned employee has given a reply denying the charges and also he has stated that the charge sheet having been issued by Assistant General Manager in his capacity as Disciplinary Authority is not maintainable for he is subordinate to the complainant. But to the Petitioner's surprise, no domestic enquiry was constituted to enquire into the allegations levelled against the concerned employee

and the Disciplinary Authority straightaway proposed to impose the punishment on Sri C. Kirubanandham issued a second show cause notice on 18-7-2002. The procedure followed by the management was violative of procedures laid down in the Bipartite Settlement and therefore, such punishment is not maintainable as the alleged act of misconduct has not been proved by the Respondent/Bank. Even after the submission, the Disciplinary Authority has imposed the punishment of stoppage of annual increment for the year 2002 for a period of six months without cumulative effect. Since, neither the procedure laid down under clause 19.12(e) of the Bipartite Settlement was followed nor the procedure laid down under clause 19.12, the punishment imposed is not justified in law. Even the appeal preferred by the concerned employee was rejected without applying their mind. Therefore, the order passed by the Disciplinary Authority as well as Appellate Authority is illegal, unlawful and in total violation of rules and procedures laid down under Bipartite Settlement dated 19-10-1966 and subsequent settlement dated 10-04-2002 on disciplinary matters. Even the provisions of Clause 19.12(e) were not followed. The concerned employee has not been given a reasonable opportunity to put forth his case and this is grossly in violation of principles of natural justice and also the provisions of standing orders. Without proving the misconduct through the process of departmental enquiry, the Disciplinary Authority has imposed the punishment totally in violation of appeal proceedings, which is in total contravention of rules. The order of Appellate Authority is not a speaking order and without applying his mind, he has approved the order of the Disciplinary Authority. Hence, for all these reasons, the Petitioner prays that an award may be passed for setting aside the order of punishment.

4. As against this, the Respondent in its counter statement alleged that Mr. C. Kirubanandam worked as a clerk at Chennai Main branch of the respondent bank during the period May, 1999 to July, 2001. While he was working at the said branch, the then Zonal Manager of the bank at Chennai Mr. G. Ramakrishna Reddy rang up to the branch at about 11.30 am on 28-7-2001 and the phone was picked up by the concerned employee and when the Zonal Manager enquired as to who was at the other end of the phone, Mr. Kirubanandam in a most discourteous manner replied stating that since he has called up he has to disclose his identity first, when the Zonal Manager disclosed his identity, he disconnected the line. The Zonal Manager again called up the branch and the phone was once again picked up Mr. Kirubanandam and when the Zonal Manager asked as to how he could disconnect the telephone, the concerned employee once again replied in a rude manner stating that how could he know that he was the Zonal Manager. The above behaviour of Mr. Kirubanandam with his superior undoubtedly amounts to an act of insubordination. Therefore, he was issued with charge

sheet clearly setting forth the act of misconduct and calling for his explanation. The delinquent employee in his reply did not dispute as to the occurrence of the incident, but he has alleged that he did not talk in a rude manner with the executive as alleged in the charge sheet. In view of the peculiar nature of the misconduct, the disciplinary authority felt it not feasible to hold a regular departmental enquiry and hence on consideration of the entire materials placed before him and after issuing 2nd show cause notice, imposed on the employee a very minor penalty of stoppage of one annual increment for a period of six months by an order dated 25-9-2002. The said penalty was duly confirmed by the Appellate Authority. Further, as per clause 19.12(e) of the Bipartite Settlement an enquiry need not be held— (i) if the bank has issued a show cause notice to employee advising him of the misconduct and the punishment for which he may be liable for such misconduct; (ii) the employee makes a voluntary admission of his guilt in reply to show cause notice and (iii) the misconduct is such that even if proved, the bank does not intend to award the punishment of discharge or dismissal. Thus, the penalty imposed on the workman concerned in inconformity with the procedure stipulated under clause 19.12(c) of the Bipartite Settlement. Further, the employee concerned was not prejudiced by dispensing with the enquiry. The Appellate Authority by his well considered order rejected the appeal. Further, the respondent submitted that if the Tribunal for any reason finds that the procedure followed by respondent management is faulty, the II Party/ Management may be afforded an opportunity to establish the charge against the concerned workman before this Tribunal or the respondent may be permitted to proceed against the concerned workman afresh. Hence, the respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the Respondent/Bank in imposing the punishment of stoppage of annual increment for the year 2002 for a period of six months without cumulative effect on the concerned employee is justified?"
- (ii) "To what relief, the concerned employee is entitled?"

Point No. 1 :—

6. In this case, one Sri C. Kirubanandam, whose cause the Petitioner Union is espousing, contended that the enquiry in this case against the concerned employee was not held in a proper manner and no domestic enquiry was conducted before imposing the punishment and no document was given to the concerned employee and no witness was examined before the concerned employee nor the concerned employee was permitted to cross examine



the witnesses and the punishment was imposed without following any procedure and hence they wanted the order passed by the Disciplinary Authority namely the Respondent/Bank is to be set aside.

7. As against this, the Respondent contended that as per clause 19.12(e) of the Bipartite Settlement, an enquiry need not be held in such a case, if the bank has issued show cause notice advising him of the misconduct and the punishment for which he may be liable for such misconduct and in this case, even in the charge sheet issued by the Respondent/Management, it has been mentioned and since it is a minor misconduct, no enquiry was conducted and under such circumstances, it cannot be said that no opportunity was given to the Petitioner for the charges framed against him.

8. But, on consideration of both the contentions, this Tribunal has come to the conclusion that the management has to give an opportunity to the Petitioner and since no proper enquiry was conducted, this Tribunal has given an opportunity to the Respondent/Bank to establish the charges framed against the concerned employee Sri C. Kirubanandam before this Tribunal.

9. After this order, the management has let in evidence before this Tribunal and on behalf of the Respondent/Bank one Sri G. Ramakrishna Reddy who was working as Zonal Manager in Madras Main branch at the relevant period was examined as MW1 and in his evidence, he has stated that on 28-7-2001 he made a phone call to Madras Main branch to the Chief Manager and he has called his direct number and at that time since he did not get the line, he tried the general number of the bank branch and one person has picked up the phone and since he did not know who has taken it as the answer given by the person over phone was in a repulsive manner. He then asked "is it Andhra Bank main branch". Again the person replied in a repulsive manner as 'Yah'. MW1 asked who is on the line. For this, the person on the line has answered "you have only dialled to this office and you are asking me who am I, hence you have to say who are you". For this, MW1 has answered that he is Zonal Manager. Then immediately the phone was disconnected. Then, again he tried the same number and at that time the same person has picked up the phone and then he replied in a polite manner wishing him "Good Morning Sir, Andhra Bank Sir and so on". Then MW1 asked him, when he told at the first time that he was the Zonal Manager for what reason he has disconnected the phone. For this, the person on the phone answered 'how can he know that Zonal Manager is on the line'. Then the Zonal Manager asked him 'who is on the line', then the person on the line said 'he is C. Kirubanandam and is working as clerk'. Only because of this behaviour, action has been taken against the concerned employee.

10. But, as against this, on behalf of the Petitioner Sri C. Kirubanandam, the concerned employee was examined as WW1 and he deposed that on that day at about 11.30 am, bank's telephone was ringing for some time and he picked up the phone and replied in a courteous manner, but the person on the other end asked him 'who is on the line'. Again he asked in a courteous manner that 'Good Morning Andhra Bank' and for any help you want I will connect the number', but without any answer, the phone was disconnected. Again, five minutes later, the phone was ringing and he took the phone and asked in a courteous manner again, but the person on the other line asked 'who is the person answering to my call'. But Sri C. Kirubanandam again told the person 'if he wants any number, he will connect the same to him'. But the person on the other end of the phone told him that 'he is the Deputy General Manager speaking' and he asked the identity of Sri C. Kirubanandam and after knowing his identity he asked him, 'is this the way for answering over phone' and asked him to inform the Chief Manager to contact him.

11. From these evidences of MW1 and WW1, it is clear that at the first instance when MW1 has phoned to Madras Main branch of the Respondent/Bank, the concerned employee has taken the phone and answered but is was disconnected subsequently, for which the concerned employee said he has not disconnected the phone and only the person who has called the bank has disconnected the phone. But, from the circumstances shown to me, it is clear that Deputy General Manager of the Respondent/Bank has no reason to disconnect the phone because, he wanted to know the person who was on the line answering the phone and he has identified himself as Deputy General Manager to the person on the line and therefore, it is clear that it is only the concerned employee Sri C. Kirubanandam has disconnected the phone at that time. Further, it is admitted by the concerned employee as WW1 that the person during the second time asked him 'is this the way for answering phone call', therefore if really the concerned employee Sri C. Kirubanandam has not answered the phone call in a repulsive manner, as alleged by the Zonal Manager of the Respondent/Bank, there is no necessity for him to ask the concerned employee 'is this the way for answering the phone call in a bank branch'. Therefore, though there is no corroborative evidence to prove the contention of the Respondent/Bank management, from the circumstances shown before this Tribunal and from the answers given by the concerned employee before this Tribunal, I find the incident must have been taken place as alleged by the Respondent/Management.

12. At this juncture, the learned representative for the Petitioner has argued that since there is only the sole evidence of Mr. G. Ramakrishna Reddy and there is no corroboration in the same, the version of Sri G. Ramakrishna

Reddy should not be believed and further, though he has stated that the person in the telephone line has replied in a repulsive manner as 'yah', it was not mentioned in the Counter Statement and it is a new addition made by Mr. G. Ramakrishna Reddy for the first time before this Tribunal to prejudice the mind of this Tribunal.

13. But, I find there is no point in the contention of the authorised representative for the Petitioner Union because there is no motive alleged by the Petitioner Union against the said Mr. Ramakrishna Reddy. Under such circumstances, MW1 has no ill-will or motive against the concerned employee Sri C. Kirubanandam to foist a false allegation against the concerned employee. In this case, the concerned employee namely Sri C. Kirubanandam has not denied the incident but he denied only the manner in which the incident had happened. From the evidences of both sides, I prefer the evidence adduced on behalf of the Respondent/Bank because there is no motive or ill-will alleged against the Deputy General Manager. Under such circumstances, I find the charge framed against the concerned employee Sri C. Kirubanandam has been proved by the Respondent/Management before this Tribunal.

14. Again, the representative for the Petitioner argued that the Respondent/Bank has acted in a vindictive manner and the authorities transferred the concerned employee and issued orders to the concerned employee on 28-7-2001 itself, who was then immediately relieved and then transferred to Aavadi branch by Fax order and the said order was issued by Assistant General Manager, who was the Disciplinary Authority and who had served the charge sheet subsequently to the concerned employee and who is also a subordinate to the Deputy General Manager, therefore, that attitude of prejudice and without adhering to rules and regulations, the respondent/Bank management has imposed the punishment and hence it is perverse and therefore, it has to be set aside.

15. As I have already found that the charge framed against the concerned employee has been proved before this Tribunal by oral and documentary evidence, I find there is no substance in the contention of the authorised representative of the Petitioner.

16. The next point to be decided in this case is .

“Whether the action of the Respondent/Bank in imposing punishment of stoppage of annual increment for a period of six months without cumulative effect in respect of the concerned employee is justified?

17. Since this punishment is only a minor punishment, I find imposition of this punishment against the concerned employee cannot be said as not justified. Under such circumstances, I, find this point in favour of the Respondent.

Point No. 2 :—

The next point to be decided in this case is to what relief the concerned employee is entitled?

18. In view of my foregoing findings that the imposition of punishment against the concerned employee is justified, I find the concerned employee is not entitled to any relief as claimed by the Petitioner Union. No Costs.

Dictated to the P. A. transcribed and typed by him, corrected and pronounced by me in the open court on this the 26th May, 2004.

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party/ Claimant : WW1 Sri C. Kirubanandam

For the II Party/  
Management : MW1 Mr. G. Ramkrishna Reddy

Documents Marked :—

For the I Party/ Claimant :

Ex. No.	Date	Description
W1	06-08-01	Xerox copy of the memo issued to concerned employee
W2	08-09-01	Xerox copy of the reply submitted by concerned employee
W3	28-07-01	Xerox copy of the transfer order issued to concerned employee
W4	04-12-01	Xerox copy of the charge sheet issued to concerned employee
W5	04-01-02	Xerox copy of the explanation to charge sheet by concerned employee
W6	18-07-02	Xerox copy of the second show cause notice
W7	30-07-02	Xerox copy of the submission to 2nd show cause notice
W8	25-09-02	Xerox copy of the order of punishment
W9	08-11-02	Xerox copy of the appeal against punishment
W10	7-12-02	Xerox copy of the order of Appellate Authority

For the II Party/ Management :—

Ex. No.	Date	Description
M1	20-08-01	Xerox copy of the letter from concerned employee requesting time for submitting reply
M2	28-08-01	Xerox copy of the letter from Respondent granting time to concerned employee

- M3 20-12-01 Xerox copy of the letter from concerned employee requesting time for submitting reply
- M4 28-12-01 Xerox copy of the letter from Respondent granting time to concerned employee

नई दिल्ली, 29 जुलाई, 2004

का. आ. 2048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बम्बई मर्केन्टाईल को. बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या आई डी-112/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-04 को प्राप्त हुआ था।

[सं. एल-12012/196/2003-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 29th July, 2004

S.O. 2048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I. D. 112/2003) of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the the employers in relation to the management of Bombay Mercantile Co-op. Bank Ltd. and their workman, which was received by the Central Government on 28-7-04

[No. L-12012/196/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : Shrikant Shukla  
Presiding Officer

I. D.No. 112/2003

Ref. No. L-12012/196/2003-IR(B-I) dt. 30-10-03

#### BETWEEN

Deepak Kumar S/o Late Lalan Babu  
Post Kisrol Thana Nagphani, Balmiki Basti  
Nr. Jharkhandi Mandir, Moradabad (U.P.)

#### AND

The Branch Manager, Bombay Mercantile  
Co-op Bank Ltd. Branch Wazidnagar  
Prince Road, Moradabad (U.P.) 244 001

#### AWARD

The Government of India, Ministry of Labour vide its order dated 30-10-2003 has referred the following issue for adjudication.

“क्या बाम्बे मर्केन्टाईल को-आपरेटिव बैंक लि. मुरादाबाद के प्रबंधन द्वारा श्री दीपक कुमार पुत्र श्री लल्लन, सफाई कर्मकार (दैनिक वेतन भोगी) को दिनांक 17-8-02 से नौकरी से निकाला जाना उचित एवं न्याय संगत है? यदि नहीं तो कर्मकार किस अनुतोप का अधिकारी है?”

The order was endorsed to Presiding Officer, CGIT cum-Labour Court, Lucknow besides it was also endorsed to Deepak Kumar S/o Lalan Babu, Post Kisrol, Thana Nagphani, Balmiki Basti, Moradabad (U.P.) 244 001 and the Branch Manager, Bombay Mercantile Co-op Bank Ltd. Moradabad (U.P.) 244 001. The order contained the direction that the parties raising the dispute shall file statement of claim complete with relevant documents, list of reliance and witnesses with the Tribunal within 15 days of the receipt of this order of reference and also forward a copy of such statement to each one of the opposite parties involved in the dispute under rule 10(B) of the Industrial Dispute (Central) Rules 1957.

The Government order was received in the CGIT-cum-Labour Court, Lucknow on 28-11-2003. Worker who raised the dispute before the concerned Labour Commissioner did not file statement of claim etc. within stipulated time in the order. The court waited for the statement of claim till 13-1-04 and thereafter ordered that the summons be sent to the worker and fixed 19-2-04 for filing statement of claim. On the date fixed one Karan Singh appeared and he also did not filed any authority letter or statement of claim. Therefore another date was fixed. On the date fixed also no statement of claim has been filed on behalf of the worker. Therefore the court on 26-3-04 again ordered notice be sent to the worker by registered post and 29-4-04 was fixed for filing statement of claim. Registered notice No. 20693 was sent on 29-3-04 but neither the statement of claim was filed on the date fixed nor the registered article received back and therefore it was believed that worker was sufficiently served. In the circumstances court directed to issue notice to the opposite party the Branch Manager, Bombay Mercantile Co-op. Bank Ltd. Branch Wazidnagar, Prince Road, Moradabad by registered post for filing their statement in writing and the next date fixed was 3-6-04 but the opposite party did not turned up nor they filed any written statement in respect of the issue referred. The next date fixed was 21-7-04 but none has turned up and none has filed statement of claim or written statement in respect of the issue referred for adjudication.

Worker has not filed any statement of claim with regard to his employment as Safaikarmkar on daily wages. He has also not file any pleading alleging that he was terminated on 17 Sept. 2002 and such termination is illegal and unjustified.



In this regard case law 1981(29) FLR page 194 V.K. Raj Industries Vs Labour Court (I) & others is relevant. The Hon'ble High Court, Allahabad held in the above case that the workman not appearing or nor producing evidence before the Labour Court, Labour Court had no jurisdiction to hold order illegal. The Hon'ble High Court observed that the dispute was referred at the instance of the workman. It was for him to produce evidence to demonstrate the illegality of termination order. As no evidence was produced by the employer, since none of the parties appeared before the Labour Court. The dispute raised by the workman must fail and the labour court can not grant relief to the workman. With the result I come to the conclusion that the issue referred can not be answered, accordingly no claim award is passed.

Lucknow

21-7-04

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 29 जुलाई, 2004

का.आ. 2049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न रेलवे, गोरखपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या आई डी-26/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-07-2004 को प्राप्त हुआ था।

[सं० एल-41012/81/2003-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 29th July, 2004

S.O. 2049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 26/2004) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Eastern Railway, Gorakhpur and their workman, which was received by the Central Government on 28-07-2004.

[No. L-41012/81/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
CUM-LABOUR COURT, LUCKNOW

## PRESENT

SHRIKANT SHUKLA, PRESIDING OFFICER

I.D. No. 26/2004

Ref. No. L-41012/81/2003-IR (B-I)

243361/04-12

Dated 13-2-04

## BETWEEN:

Keshav Prasad, S/o Baijnath Prasad  
Vill. Bhulbhalaiya, Post Kaithola  
Distt. Gonda (U.P.)

## AND

The General Manager, Eastern Railway  
Gorakhpur (U.P.) 273001  
The Railway Road Inspector (Construction)  
Eastern Railway  
Gonda (U.P.)

## AWARD

The Government of India, Ministry of Labour vide their order No. L-41012/81/03-IR (B-I) dated 13-2-04 referred the following issue for adjudication to the Presiding Officer CGIT-cum-Labour Court, Lucknow :

“क्या रेल पथ निरीक्षक (निर्माण) पूर्वोक्त रेलवे, गोंडा द्वारा कर्मकार श्री केशव प्रसाद आत्मज श्री बेजनाथ प्रसाद की दिनांक 15-3-82 से सेवा समाप्त किया जाना न्यायोचित है, यदि नहीं, तो संबंधित कर्मकार किस अनुतोष का हकदार है ?”

The copy of the order was endorsed to Sri Keshav Prasad S/o Baijnath Prasad, Vill. Bhulbhalaiya, post Kaithola Distt. Gonda (U.P.), and Railway Road Inspector (Construction) Eastern Railway, Gonda, General Manager Eastern Railway, Gorakhpur (U.P.) and Asstt. Labour Commissioner (C) Kanpur besides other officers.

The said order was received in CGIT-Labour Court, Lucknow, on 22-3-2004.

It was clearly mentioned in the order of reference that the parties raising the dispute shall file statement of claim complete with relevant documents list of reliance and witnesses with the Tribunal with 15 days of the receipt of this order of reference and also forward a copy of statement to each one of the opposite party involved in the dispute under Rule 10(B) of the Industrial Dispute (Central) Rules 1957.

Court waited for the statement of claim till 30-4-04 but since the worker did not turned up nor he filed any statement of claim. Also notice by registered post was sent to the worker fixing 30-6-04 for filing statement of claim together documents etc. but even then on 30-6-04 the worker who raised the dispute before Asstt. Labour Commissioner (C) Kanpur did not file the statement of claim on the date so fixed. Registered notice was sent on 30-4-04 vide receipt No. B-1 but the registered article has not been received back in the office till 18-6-04 and therefore it was believed that worker is sufficiently served.

On 18-6-04 Presiding Officer, CGIT-cum-Labour Court ordered that the notice by registered post be sent to the opposite party, General Manager, Eastern Railway, Gorakhpur and Railway Road Inspector (Construction)

Gonda fixing 21-6-04 for the written statement in respect of issue referred. The registered notice (postal receipt no. 20849 & 20850) was sent to them on 21-6-04 but till today i.e. 21-7-04 opposite party has not sent any written statement and no one turned up on behalf of them. Keshav Prasad, the worker has not substantiated his claim that his termination dated 15-3-82 is illegal or unjustified. He has not filed any documentary evidence or oral evidence in support of illegality in the termination order passed by Railway Road Inspector (Construction) Eastern Railway, Gonda.

Hon'ble High Court, Allahabad in 1981 (29) FLR 194 between workman V.K. Raj Industries and Labour Court (I) and others has held that "It is well settled that parties challenges legality of a order, the burden lies on him to prove illegality of order if no evidence is produced the party invoking the jurisdiction of the court must fail". The Hon'ble High Court held that the burden lay on the workman to set out the grounds challenging the validity of termination order and to prove that termination order is illegal. The workman did not appear nor they produced evidence with the result there is no material before the Labour Court for recording findings that the order of the termination passed by the employer is unjustified or illegal. In the absence of any evidence labour court has no jurisdiction to hold order of termination illegal.

In the circumstances stated above this court can not adjudicate the issue referred by the Government, accordingly no claim award is passed.

21-7-2004

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जीवन बीमा निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नै के पंचाट (संदर्भ संख्या 66/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-07-2004 को प्राप्त हुआ था।

[ सं० एल-17012/5/2002-आई आर (बी-II) ]

सी. गंगाधरण, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of LIC of India and their workman, which was received by the Central Government on 27-07-2004.

[No. L-17012/5/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 25th May, 2004

Present

K. Jayaraman, Presiding Officer

Industrial Dispute No. 66/2002

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of LIC of India and their workmen S. Ayyappan (Deceased)]

#### BETWEEN

S. AYYAPPAN ((deceased) : I Party/Workman

1. Ambika	}	Legal Representative
2. Jaganmohan		
3. Madanmohan		
4. Sarasammal		

impleaded as Petitioners by this Tribunal vide Order No. 108/2002 dated 26-11-2002

#### AND

The Management, : II Party/Management  
LIC of India,  
Palayamkottai, Tirunelveli.

#### APPEARANCE:

For the Claimant	: M/s. D. Geetha, M. Murugan & Veda Ramya, Advocates
For the Management	: Mr. P. V. Raghavan, Advocate

#### AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-17012/5/2002-IR (B-II) dated 15-07-2002 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the punishment of removal of Sri S. Ayyappan, Record Clerk from service by the management of LIC of India is legal and justified? If not, what relief the workman is entitled to?"

2. After the receipt of the reference, it was taken on file as I.D. No. 66/2002 and notices were issued to both the parties. Since the I Party/Workman Ayyappan died during the pendency of this case, the legal representatives of the original Petitioner namely Ayyappan were impleaded as Petitioners as per order of this Tribunal No. 108/2002 dated 26-11-2002 and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioners in the Claim Statement are briefly as follows :—

The original Petitioner namely Ayyappan died on 7-4-2002 leaving behind the four Petitioners who are his wife, sons and mother as his legal heirs. The deceased Ayyappan was appointed as sub-staff on 23-10-69 in the Respondent office and in 1991 he was promoted to the post of Record Clerk. While, so, during April, 1993 departmental proceedings were taken against the original Petitioner namely Ayyappan and under Regulation 39 of LIC of India Regulations, 1960 for certain charges. the charges framed against the said Ayyappan are that—

- (i) he had unauthorisedly collected from Smt. Seetha Mohan, one of the policy holders under policy No. 740605969, an amount of Rs. 316/- each towards three quarterly premiums due for July, 1992 October, 1992 and January, 1993 totalling to Rs. 948/- and he had not remitted those amounts so collected at Nagercoil branch I, thus, he has not only unauthorisedly collected the amount, but also had misappropriated the said amount which belongs to the Corporation,
- (ii) the said Ayyappan had tampered the office records namely policy register sheet, premium invoice relating to above policy by making entries in office records to make it appear that the premium duly July, 1992 under the above policy had been paid on 13-10-92, where as it was not actually remitted to the office;
- (iii) the said Ayyappan had fraudulently raised a policy loan under policy No. 740599106 on the life of Sri K. Murugan by illegal means and got unauthorised possession of loan cheque No. 961702 dated 10-2-93 for Rs. 7200/- issued in favour of Sri K. Murugan and he has fraudulently opened a S.B. account in the name of K. Murugan on 12-2-93;
- (iv) The said Ayyappan had fraudulently withdrawn the said amount of Rs. 7200/- by a withdrawal slip on 13-2-93 and thus, had misappropriated the amount due to the policyholder Sri K. Murugan under policy No. 740599106;
- (v) The said Ayyappan had also tampered wilfully and intentionally the loan records in respect of the above policy; and

- (vi) The said Ayyappan had misused his position as Record Clerk in the branch office to secure unauthorised possession of the loan docket under policy No. 40785601 and kept this loan docket in his custody unauthorisedly.

and while the departmental enquiry was pending the said Ayyappan was placed under suspension under Regulation 36(1) of LIC of India (Staff) Regulations, 1960. the Enquiry Officer conducted the enquiry in biased and prejudiced manner and he has not given adequate opportunity to the said Ayyappan to defend himself. the Enquiry Officer found the said Ayyappan guilty of the charges and he has submitted his report on 10-10-98 without assessing the evidence on record and without assigning proper reasons and hence his findings is clearly perverse. Based on the findings of the Enquiry Officer, show cause notice was issued on 19-3-99 along with the enquiry report. This procedure is illegal and violative of principles of natural justice and the Disciplinary Authority basing on the report has removed the said Ayyappan from service with immediate effect by an order dated 16-04-1999. But the Enquiry Officer and also the Disciplinary Authority has failed to assess the evidences on record in an objective and independent manner. The order passed by the Disciplinary Authority in removing the said Ayyappan from service is grossly disproportionate to the gravity of the charges and an economical death penalty to the Petitioner. Further, the order passed by the Respondent is arbitrary, unreasonable and violative of principles of natural justice. Hence, for all these reasons, the Petitioners pray that an award may be passed setting aside the order of removal dated 16-4-99 and direct the Respondent to pay all the consequential benefits including back wages from the date of removal to the date of death of said Ayyappan.

4. As against this, the Respondent in its counter statement contended that it is true that departmental proceedings were instituted against Ayyappan as per charge sheet dated 21-5-97 and domestic enquiry was held into the charges of said Ayyappan. The Enquiry Officer after due consideration gave his report finding that the said Ayyappan guilty of charges. The enquiry finding was accepted by the Disciplinary Authority and show cause notice was issued to him and after duly considering the reply from the delinquent employee namely Ayyappan, penalty of removal from service was imposed on him by an order dated 16-4-99. His appeal to Zonal Manager was also duly considered and rejected by him. Even the Memorial to the Chairman for consideration was rejected by the Chairman. It is false to allege that the enquiry was conducted in a perverse manner. It is also not true to say that the Enquiry Officer gave his finding without assessing the evidence on record in an objective and independent manner. It is also not correct to say that penalty of removal from service is grossly disproportionate to the gravity of the charges. The said Ayyappan was charged with fraud,

misappropriation, obtaining a loan of Rs. 7200/- on a policy not belonging to him opening a fictitious bank account and depositing the loan cheque, encashing it, forgery etc, tampering office records including invoices and policy register sheets. These charges are certainly of such gravity involving moral turpitude on the part of the employees inviting the penalty of removal from service and therefore, penalty was rightly imposed. It is well known fact of law that in the domestic enquiry strict evidence of act need not followed per se. Hence, the allegation of violation of enquiry proceedings is strictly denied as false. Therefore, for all these reasons, the respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the punishment of removal of deceased Ayyappan from service by the Respondent/Management is legal and justified?"
- (ii) "To what relief the Legal Representatives of the said workman is entitled?"

Point No. 1 :—

6. In this case, the charges framed against the deceased Ayyappan are that he had unauthorisedly collected money from Mrs. Seetha Mohan, one of the policy holders of the Respondent, the amount of Rs. 316/- each towards three quarterly premium totalling to Rs. 948/- and he has not only unauthorisedly collected the money but also misappropriated that amount which belongs to the Corporation. Secondly, the deceased Ayyappan tampered the office records of policy register relating to the above said policy belongs to Mrs. Seetha Mohan by making entries in the office records to make it appear that the premium due have been paid and thirdly the said deceased Ayyappan had fraudulently raised a policy loan on the life of one Sri K. Murugan by illegal means and got unauthorised possession of loan cheque and he has lodged the cheque and withdrawn the amount by withdrawal slip on 12-2-93 and thus he had misappropriated the amount due to the policyholder Sri K. Murugan and he has also tampered wilfully the loan records in respect of Sri K. Murugan and he misused his position as record clerk in the branch office to secure unauthorised possession of the said loan docket.

7. At the first instance, the learned counsel for the Petitioner argued that the domestic enquiry held in this case is not fair and proper and therefore, the preliminary issue with regard to conduct of enquiry has to be framed and orders has to be passed. After hearing both sides, this Tribunal passed an order that the domestic enquiry held in this case is not fair and proper and therefore, has given an opportunity to lead evidence before this Tribunal by the Respondent/Management and after the said order, the Respondent has examined four witnesses in this case on their side. MW 1 Mr. T. Muppudathi was an administrative officer at the relevant time. MW 2 Mr. S. Muralikrishna is

the Forensic Expert, who had examined documents in this case. MW3 is one Mr. Subbiah, who was working as Assistant Branch Manager at the relevant time in the Nagercoil branch of LIC. MW 4 is one Mr. D. Jayaprakasam worked as an Assistant Administrative Officer at Nagercoil branch at the relevant period. On the side of the Respondent documents Ex. M1 to M 23 were marked. Therefore, from the oral evidence adduced before this Tribunal and from the documents produced before this Tribunal, it has to be seen whether the Respondent has established the charges framed against the said deceased Ayyappan or not?

8. Though the Respondent has alleged that the deceased Ayyappan worked as a Record Clerk in the Nagercoil branch of the Respondent Corporation has misappropriated the funds of the Respondent Corporation, I find this fact has not been established before this Tribunal. The first allegation against the said deceased Ayyappan is that he has collected Rs. 316/- each for three quarterly premiums totalling to Rs. 948/- from Smt. Seetha Mohan, one of the policy holders of the Respondent Corporation and he has no authority to collect the same and he has misappropriated the said amount which belongs to Respondent Corporation. But, in this case, the Respondent has not produced the complaint given by Mrs. Seetha Mohan nor examined the said Mrs. Seetha Mohan before this Tribunal that the amount has been paid to deceased Ayyappan by her for payment of quarterly premium due to July, 1992, October, 1992 and January, 1993. Though the counsel for the Respondent relied on the self-confessional letter alleged to have been given by deceased Ayyappan namely Ex. M1 which is in Malayalam, it was not established that this letter was given by the said deceased Ayyappan to the Manager at that time voluntarily. Though the witnesses MW1 and MW4 had spoken with regard to this letter, they have not signed in that letter as an attesters. Further, no authentic translation copy of the said letter was produced before this Tribunal to note the contents of the document. The learned counsel for the Respondent has argued that by this letter, the deceased Ayyappan had admitted his guilt and he has begged the pardon of the management. Since the burden is upon the Respondent to prove that this document is true genuine and executed by Ayyappan and the alleged confession given by the said Ayyappan is valid in law and the Respondent has not proved to the satisfaction of this Tribunal that it is true and genuine document, I find there is no substance in the contention of the counsel for the Respondent. Further, though the learned counsel for the Respondent argued that at this juncture namely after more than ten years of the incident, no witness is available to depose against the said Ayyappan. But, since the burden is upon the Respondent to prove that the charges framed against Ayyappan to the satisfaction of this Tribunal, I find the reason given by the Respondent cannot be acceptable at all. It is not disputed that the policy holder Mrs. Seetha Mohan is available and it is also not disputed that the policy holder Mr. K. Murugan

is available, there is nothing prevented the Respondent from examining the said witnesses before this Tribunal to prove the case against the deceased Ayyappan. But, the Respondent has not taken any steps to produce the said witnesses Mrs. Seetha Mohan and Sri K. Murugan to substantiate their claim. On the other hand, they wanted to rely on the Vague inferences to be drawn from the circumstances shown before this Tribunal and also the inferences to be drawn from the expert evidence given by the Forensic Scientific Officer/Document Expert opinion. Though the expert examined in this case namely Mr. S. Muralikrishna has given evidence that the disputed handwriting namely Ex. M 21 to M 23 and the admitted handwriting of Ayyappan are made by one and the same person. In this case, he has not examined the signature or handwriting of Mr. K. Murugan who was the alleged policyholder from which account the loan has been applied and obtained and the Respondent has not given any valid reason for not sending the admitted signature and also the handwriting of Mr. K. Murugan for comparison. Though much reliance was placed on the evidence given by the handwriting expert, since the opinion given by the handwriting expert is not a conclusive proof, I am not inclined to accept the expert opinion in this case and come to a conclusion that the handwriting in Ex. M 21 to M 23 were made by the deceased Ayyappan. Moreover, since the Respondent has not given any valid reason for non-examination of policyholder Sri K. Murugan and also the policy holder Mrs. Seetha Mohan, I find there is no substance in the contention of the learned counsel for the Respondent that expert has given opinion that deceased Ayyappan has made these entries fictitiously and also opened the account fictitiously in Allahabad Bank, Nagercoil Branch and surreptitiously withdrawn the amount due to Mr. K. Murugan. Though the Respondent has examined four witnesses to establish the fact that Ayyappan had misappropriated the amount due to the Respondent Corporation, I find from the evidence of MW1 to MW4, it is not established that Ayyappan had misappropriated the amount alleged to have been given by Mrs. Seetha Mohan and also misappropriated the loan amount of Rs. 7,200/- due to Mr. K. Murugan.

9. Again, learned counsel for the Respondent argued that from the drawer of Sri K. Murugan, Ex. M 2 namely DCH form signed by Mrs. Seetha Mohan has been taken and since the amount of Rs. 1000/- has been taken from the drawer, it is clear that Smt. Seetha Mohan has handed over the amount of Rs. 918/- to the said Ayyappan and the Ayyappan has misappropriated the said amount due to the Corporation. But, I find there is no point in the contention of the learned counsel for the Respondent because since Smt. Seetha Mohan was not examined before this Tribunal that she has given the said amount for payment of premium due to the Corporation, it cannot be contended that the amount has been unauthorisedly collected by deceased Ayyappan and misappropriated by the said Ayyappan.

Similarly, since Sri K. Murugan one of the policy holders of the Corporation has not been examined before this Tribunal that he has not applied for any loan and he has not taken the alleged amount of Rs. 7200/- for his benefit, it cannot be said that the said Ayyappan has fraudulently made loan application and fictitiously taken away the amount for his benefit.

10. On the other hand, the learned counsel for the petitioner argued that in the domestic enquiry before the Respondent the said K. Murugan has given a version that he has applied for loan and he has taken the loan amount from the bank and he further stated that he has repaid the amount and the policy has been returned to him and therefore, the contention of the Respondent that deceased Ayyappan has fraudulently made the application and Forged the signature of the policyholder Mr. K Murugan is not valid in law. But, anyhow, the said K. Muruga was not examined before this Tribunal to know the truth. Under such circumstances, since the burden on the respondent has not been discharge by the Respondent to establish the case against the deceased Ayyappan, I find the charges framed against the said Ayyappan have not been proved and therefore, the punishment given by the Respondent/ Management is not valid in law. As such, I find this point in favour of the Petitioner.

#### Point No. 2:—

The next point to be decided in this case is to what relief the Petitioner is entitled?

11. In view of my above findings that the charges framed against Ayyappan have not been proved, I find the order of removal dated 16-04-99 against the deceased Ayyappan is not valid and therefore, I direct the Respondent to pay all the consequential benefits including back wages from the date of removal to the date of death of Ayyappan namely 7-4-2002 to the legal heirs of the said Ayyappan. Though the legal heirs pray for appointment for the third Petitioner on compassionate ground, this relief cannot be given by this tribunal and hence they are not entitled for compassionate ground appointment. No Costs.

12. The reference is answered accordingly.

(Dictated to the P.A transcribed and type by him, corrected and pronounced by me in the open court on this day the 25th May, 2004.)

K. JAYARAMAN, Presiding Officer

#### Witnesses Examined:—

For the I Party/ Workman : None

For the II Party/ Management : MW1 Mr. T  
Muppudathi  
MW2 Mr. S.  
Muralikrishna  
MW3 Mr. S. A. M  
Subbaih  
MW4 Mr. D  
Jayaprakasam

## Documents Marked :—

For the I Party/ Workman:—Nil

Ex. No.	Date	Description
M1	26-03-93	Letter in Malayalam by S. Ayyappan
M2	Nil	DCH form signed by Smt. Seetha Mohan
M3	Nil	Policy ledger sheet of Seetha Mohan
M4	Nil	Renewal Premium invoice
M5	10-02-93	Application for loan
M6	10-02-93	Loan/ Surrender review slip
M7	Nil	Page 26 of cheque movement register
M8	Nil	Xerox copy of the Policy of K. Murugan
M9	Nil	Xerox copy of the attendance register
M10	22-04-91	Letter by S. Ayyappan
M11	27-06-91	Letter by S. Ayyappan
M12	04-07-91	Letter by S. Ayyappan
M13	12-07-91	Application for cycle advance
M14	12-07-91	Application for cycle advance
M15	19-07-91	Letter from S. Ayyappan
M16	22-04-92	Letter from S. Ayyappan
M17	23-07-93	Letter from Allahabad Bank
M18	11-03-96	Copy of letter to Forensic Department
M19	23-10-96	Letter from Forensic Department
M20	23-10-96	Report from Forensic Department
M21	Nil	Application for opening bank account
M22	Nil	Bank deposit slip
M23	Nil	Bank withdrawal slip

नई दिल्ली, 30 जुलाई, 2004

का. आ. 2051.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय I, मुंबई के पंचाट (संदर्भ संख्या 47/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-20030/14/95-आईआर (सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/96) of the Central Government Industrial Tribunal/Labour Court, I, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India and their workmen, which was received by the Central Government on 29-7-2004.

[No. L-20030/14/95-IR (C-I)]

S. S. GUPTA, Under Secy.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) MUMBAI

## PRESENT:

Shri Justice, S.C. Pandey, Presiding Officer

REFERENCE NO. CGIT-47 OF 1996

## PARTIES:

Employers in relation to the management of

Air India Ltd.

AND

Their workmen

## APPEARANCES:

For the Management : Mr. Lancy D'Souza,

For the Workman : Ms. K.N. Samant, Advocate.

State : Maharashtra

Mumbai, the 22nd July, 2004

## AWARD

1. This is a reference made by the Central Government under clause (d) of Sub-section 1 and Sub-section 2 A of Section 10 of Industrial Dispute Act (the Act for short) for adjudicating upon an industrial dispute between Air India Ltd. (the company for short) and Shri N.B. Sonekar (the workman for short). The terms of the industrial dispute in question are as follows"

"Whether the action of management of Air India Ltd., Mumbai in imposing the penalty of reduction in rank on Shri N.B. Sonekar is legal and justified? If not, to what relief is said workman entitled?"

2. The undisputed facts of this case are that the workman that he was given a charge sheet dated 19-1-1989. The charges framed against the workman to the following effect.

(i) Wilful insubordination of reasonable and lawful order of superiors.

(ii) Commission of Act subversive of discipline.



The workman was at time working as Senior Master Technician at the time of service of charge sheet. It is not in dispute that workman was charge sheeted four times prior to the charge sheet in question. It is not denied that workman gave a reply to the charge sheet. However, it is not disputed an enquiry against workman was ordered. It is not in dispute that the enquiry was started on 11-7-90. The workman was defended by K. Shashidharan in the enquiry. It is not in dispute that during the enquiry proceedings the workman was given opportunity to cross examine the witnesses. The workman was also given opportunity to examine his own witness. He made his final submission on 28-10-92. The workman was given copy of the enquiry report dated 12-2-93 on 7-8-1993. Another charge sheeted dated 2-6-89 was issued against the workman. In this enquiry the workman was defended by Mr. P.B. Kumar. The workman was given an opportunity to cross examine the witnesses. The workman was allowed to make his submission. The enquiry report dated 7-8-93 was received by the workman. The workman was served with charge sheet dated 3-9-92. His explanation was found unsatisfactory. The workman was represented by Mr. C.D. Soman and A.K. Menon. The workman filed his final submission on 6-10-92. It is not in dispute that the workman was served with show cause Notice dated 3-8-1993. The proposed punishment was reduction in rank. After considering the reply dated 4-8-93 the management of the company passed the order of reduction in rank.

3. The workman challenged the punishment in his statement of claim stating that he was victimized. The enquiry in each case in violation of the principles of natural justice. He was not given the representatives of choice. All kinds of possible grounds were taken up. He also claimed that punishment were disproportionate.

4. The company denied any infirmity in their enquiries. It denied that findings against the workmen were perverse. The punishment was proper according to submission made on behalf of the company.

5. The workman filed his affidavit in lieu of examination in chief. He was cross examined and discharged. No company did not lead any evidence. The workman appears to have protested because he was given Fan grinding job. According to his own affidavit that the job was hazardous to health and therefore an industrial dispute was raised. However, the workman in cross examination stated that he was not given full opportunity to defend himself. This tribunal is satisfied that workman was given full opportunity and the findings of facts are not perverse. The argument raised on behalf of the workman are not such that they can be considered for holding that the principles of natural justice were not followed. When the workman himself admits in cross examination. *"It is correct to say that in these three enquiries the management of Air India has provided me assistance of a defence*

*representatives of my choice. It is correct to say that the evidence recorded in all these enquiries was made in presence of myself and my defence representatives. It is correct to say that I was permitted to cross examine the witness during the course of all the three enquiries examined by the management. It is correct to say that during the course of enquiries aforesaid, I was given full opportunity to examine my witness and make statement in my defence"*.

6. This tribunal has perused the reports of enquiry. Each of the report is based on evidence on record. This tribunal cannot find any perversity in these three enquiry reports. Applying the usual test for finding out if a reasonable man would reached the same conclusion as the three enquiry report reached on the basis of evidence led before the enquiry committee, it is held that the findings are not perverse.

7. The workman was given a penalty after issuance of the three show cause notices. The workman continuously disobeyed the orders of his superiors considering that it was his right to oppose the illegal orders. He must suffer the consequence for disobedience. This tribunal cannot enter into the quantum punishment as the punishment is not grossly disproportionate. On the other hand the Competent Authority erred on the side leniency by passing the order of reduction in rank.

8. The result of the discussion is that the reference is answered by stating that the imposition of penalty of reduction in rank was legal and justified. The workman is not entitled to any relief. No costs.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का. आ. 2052.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 134/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-20012/396/94-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 134/95) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/396/94-IR (C-I)]

S. S. GUPTA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD****PRESENT:**

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I. D. Act, 1947

**REFERENCE NO. 134 OF 1995****PARTIES:**

Employers in relation to the management of Lodna  
Area of M/s. BCCL and their workmen

**APPEARANCES:**

On behalf of the Workman : None

On behalf of the Employers : Mr. H. Nath, Advocate.

State : Jharkhand : Industry : Coal

Dhanbad, the 1st July, 2004

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/396/94-IR (Coal-I), dated, the 19th September, 1995.

**SCHEDULE**

“Whether the action of management of Lodna Colliery of M/s. BCCL, in dismissing Shri Ramdas Ram, Loader from the services w.e.f. 4/5-7-92 is justified? If not, to what relief the concerned workman is entitled?”

2. The case of the concerned workman according to Written Statement, submitted by the sponsoring union on his behalf in brief is as follows :—

They sponsoring Union contended that the concerned workman who was a miner/loader of Lodna Colliery developed insanity and for which he was under treatment at Ranchi Mansik Arogyasala, Kanke from 7-7-89 to 10-5-90 and thereafter as he was declared fit by the Assistant Superintendent of that hospital resumed his duty. They submitted that the concerned workman again fell ill after the end of his duty on 2-11-91. 3-11-91 was Sunday and there was no family member of his family to attend him and for which his co-villagers took him to his native village. He remained under treatment of Hakim Baidya but as the said treatment did not respond he was placed

under treatment of Assistant Surgeon Jamui State Dispensary and sent information to the management in the matter of his ailment through registered post. They submitted that when the concerned workman was declared fit by the said Asstt. Civil Surgeon Jamui on 28-4-92 he reported for duty with medical certificate of his fitness.

They alleged that the management on the contrary issued chargesheet to him under clause 26.1.1 of the certified standing order for committing misconduct on the ground of his absentism. They submitted that the concerned workman in his reply to the said chargesheet disclosed everything about his ailment and treatment. But management without accepting his reply conducted domestic enquiry against him. They admitted that though the concerned workman participated the enquiry proceedings and disclosed the reason of his absence on this ground of his ailment the enquiry officer ignoring his submission completed hearing perversely and submitted his report to the Disciplinary authority holding him guilty to the charge. Disciplinary authority thereafter dismissed the concerned workman from his service and published the said order of dismissal in the ‘Janmat’ newspaper on 22-7-92. It is the specific allegation of the sponsoring Union that the enquiry officer conducted the said domestic enquiry not fairly and properly following the principle of natural justice and for which they raised industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication. Accordingly, they submitted prayer to pass award directing the management to reinstate the concerned workman to his service with back wages and other consequential relief.

3. Management on the contrary after filing Written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in their written statement submitted on behalf of the concerned workman.

They disclosed that the concerned workman without giving any intimation remaining himself absent from duty unauthorisedly with effect from 9-11-91 and for which a charge sheet was issued to him dt. 11/16-4-92 under clause 26.1.1 of the Certified Standing Order for committing mistake on the ground of absentism. As the reply given by the concerned workman was not satisfactory they started domestic enquiry against him through Enquiry officer. During hearing of the said enquiry proceeding Enquiry officer gave full opportunity to the concerned workman to defend his case and for which they denied the fact that it was not done fairly properly and in accordance with the principle of natural justice. They submitted that the Enquiry Officer after completing the said enquiry proceeding submitted his report holding the concerned workman guilty to the charges and thereafter, disciplinary authority considering enquiry report and all other aspects dismissed him from service *vide* letter dt. 7-5-92. They categorically denied the fact that the concerned workman was dismissed



from his service illegally, arbitrarily and violating the principle of natural justice and for which he is not entitled to get any relief in view of his prayer. In the circumstances, they submitted prayer to pass award rejecting the claim of the concerned workman.

#### 4. POINTS TO BE DECIDED

"Whether the action of the management of Lodna Colliery of M/s. BCCL in dismissing Shri Ramdeo Ram, Loader from the services w.e.f. 4/5-7-92 is justified? If not, to what relief the concerned workman is entitled?"

#### 5. FINDING WITH REASONS

It transpires from the record that before taking up hearing of this case on merit exparte, it was taken into consideration if domestic enquiry held against the concerned workman by the Enquiry Officer being appointed by the management was fair, proper and in accordance with the principle of natural justice or not. The said issue on preliminary point was disposed of vide order No. 33 dt. 1-1-04 in favour of the management. Accordingly, at this stage there is no reason at all to reopen the said issue for further decision.

Here the point for consideration is whether the management have been able to substantiate the charge brought against the concerned workman and if so whether the concerned workman is entitled to get any relief U/s. 11A of the I.D. Act. In course of hearing chargesheet issued to the concerned workman was marked as Ext. M-10. It transpires from the chargesheet that management issued the same against the concerned workman for committing misconduct on the ground of absentism under clause 26.1.1 of the Certified Standing order. It is the specific allegation of the management that the concerned workman started absenting from duty w.e.f. 4-11-91 for more than 10 days without taking permission and also without giving any intimation. The chargesheet was issued on 11/6-4-92 i.e. till that date the concerned workman remained on unauthorised leave. Considering the facts disclosed in the Written Statement concerned workman did not deny the fact relating to his absence from duty w.e.f. the date mentioned. It is the contention of the sponsoring Union that as the concerned workman developed insanity he remained under treatment at Ranchi Mansik Aroyagyasala, Kanke from 7-7-89 to 10-5-90 and thereafter as he declared medically fit he resumed his duty. Thereafter on 2-11-91 he again fell ill permanently and went back to his native village for his further treatment and to that effect he sent information to the management through registered post. Issuance of chargesheet for committing misconduct on the ground of his unauthorised absence was for the period from 3-11-91 and not for his absence for the period from 7-7-89 to 10-5-90 on the ground of his previous ailment. It transpires that the concerned workman participated the hearing of the domestic enquiry proceedings fully.

Accordingly as per submission of the management he got ample scope to produce cogent medical papers to show that as he was actually lying ill he could not get scope to attend his duty. He also did not consider necessary to produce his postal receipt to show that he intimated the ground of his absence to the management by registered post. It transpires from the report of the enquiry officer Ext. M-4 that in course of hearing concerned workman produced one medical certificate of fitness issued by Civil Assistant Surgeon Sub-Divisional Hospital, Jamui showing his remaining treatment under the said Surgeon with effect from 1-12-91 to 28-4-92. The said medical certificate show that he was suffering from "Recurrent Jaundice." From the enquiry report I have failed to find out any observation of the enquiry officer if he disbelieved the genuinity of the Medical Certificate produced by the concerned workman issued by Civil Assistant Surgeon, Sub-Divisional Hospital Jamui. Accordingly, I find reason to hold that the concerned workman was actually under treatment of the said Civil Surgeon for the period in question. Therefore, Learned Advocate for the management who in course of hearing highlighted that the concerned workman could not produce medical papers for his treatment appears to be not correct.

It is the claim of the management that the concerned workman started remaining himself on unauthorised absence with effect from 4-11-91. It is seen that the concerned workman remained under treatment of Asstt. Civil Surgeon from 1-12-91 to 28-4-92. Therefore, it transpires that from 4-11-91 to 30-11-91 he was not placed under treatment of any Registered Medical Practitioner. It is the claim of the concerned workman that after coming back to his native village he remained under treatment of Hakim/Baidya but as he failed to get himself recovered he consulted the Asstt. Civil Surgeon of Jamui Sub-Divisional Hospital. Therefore, onus shifts on the concerned workman to establish that he was under treatment of Hakim/Baidya from 4-11-91 to 30-11-91. Considering all papers relating to enquiry proceedings I have failed to find out any cogent evidence to show that actually he was placed under treatment of Hakim/Baidya for the period from 4-11-91 to 30-11-91 though he had ample scope to establish his claim. His further contention is that he reported the reason of his absence to the management by sending letter through registered post. This fact also he had sufficient scope to establish by producing postal receipt. He also did not consider necessary to produce the copy of his petition the original of which he sent to the management on the ground of his ailment with a view to substantiate his claim. Therefore, there is reason to consider that he remained absent from his duty unauthorisedly with effect from 4-11-91 to 30-11-91 which should be considered as misconduct as per claud 26.1.1 of the Certified Standing Order.

Therefore, in view of my discussion above I hold that the concerned workman was found to be guilty to the charge brought against the concerned workman under

clause 26.1.1 of the Certified Standing order for his remaining unauthorised absence for the period from 4-11-91 to 30-11-91.

It is seen that the Disciplinary authority relying on the enquiry report Ext. M-4 dismissed the concerned workman from his service. The order of dismissal during hearing was marked as Ext. M-3. As per order of dismissal he was dismissed from his service w.e.f. 4-7-92.

Now the point for consideration is if the concerned workman is entitled to get any relief U/s. 11A of the I.D. Act., 1947. Sec. 11A speaks as follows :—

“Where an industrial dispute relating to the discharged or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award set aside the order of the discharged or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

Considering the provision as laid down in this section, before modification of the order of dismissal it is to be looked into if the punishment inflicted on the concerned workman was justified or not.

In view of my discussion above there is sufficient reason to hold that the concerned workman remained under treatment of Asstt. Civil Surgeon, Sub-Divisional Hospital Jamui on the ground of his recurrent jaundice for the period from 1-12-91 to 28-4-92. It has not been established by the management that the said medical certificate which the concerned workman relied on is fake or manufactured. Therefore, there is no scope to challenge its authenticity. If this period of absence is kept apart in that case the question which will crop up is whether order of dismissal issued against the concerned workman for the period from 4-11-91 to 30-11-91 was justified and in accordance with the principle of natural justice. I have already discussed above that the concerned workman has failed to justify that he was under treatment of Hakim/Baidya for the period in question. He has also failed to establish that he sent information to the management by regd. post stating the ground of his ailment.

For a patient of Jaundice if it is taken into consideration that he could not intimate the reason of his absence during that period he had the scope to intimate the reason of his absence at its initial stage. Accordingly there is no dispute to hold that he committed misconduct.

Now let me consider if for committal of this misconduct order of dismissal of the concerned workman from his service was justified. It is seen that prior to this incident the concerned workman being a mental patient remained under treatment for a long period at Mental Hospital, Kanke. This fact was not denied by the management. It is seen that after he was declared medically fit he resumed his duty. It is seen that 10/11 months thereafter again he fell ill and for which also he remained absent from 4-11-91 to 11/6-4-92. The concerned workman has failed to account for his absence on the ground of his ailment for the period from 4-11-91 to 30-11-91 i.e. for a period of 27 days. Therefore, it is to be taken into consideration if the order of dismissal for his absence for the period of 27 days was justified maintaining the principle of natural justice. It is to be borne into mind that order of dismissal from service of a workman is the maximum punishment which the management can award. Like that of capital punishment of an accused in a criminal case it has its immense depth and for which its application is expected to be confined in extreme case. It is not expected that such weapon the management will use ignoring the principle of natural justice and also ignoring the question of balance of convenience and inconvenience. The misconduct which the concerned workman committed was not so grave that it can invite the order of his dismissal from service. However, I do not like to mean that in all cases of dismissal on the ground of absenteeism will stand on the same footing. Every case with such allegation shall be scrutinised on its independent merit and not based on general view. In the instant case if the principle of natural justice as well as principle of balance of convenience and inconvenience are taken into consideration it will expose that punishment inflicted on the concerned workman was not justified and accordingly for the interest of justice it deserves modification.

In the result, the following Award is rendered :—

“The action of the management of Lodna Colliery of M/s. BCCL in dismissing Shri Ramdeo Ram, Loader from the services w.e.f. 4/5-7-92 is not justified. Consequently, the concerned workman is entitled for reinstatement to his original job with effect from the date of his dismissal without any back wages and other consequential benefits. However, he will get the benefit of drawing wages and other relief from the date of passing this Award with continuity of service.”

Management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.अ. 2053.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 119/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल.-20012/309/96-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 119/97) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/309/96-IR (C-1)]

S. S. GUPTA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD****PRESENT**

Shri B. Biswas,  
Presiding Officer

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I. D. Act, 1947

**REFERENCE NO. 119 OF 1997**

**PARTIES :** Employers in relation to the management  
of Barora Coal Washery of M/s. BCCL  
and their workman.

**APPEARANCES :**

On behalf of the workman : None

On behalf of the employers : Mr. R. N. Ganguly,  
Advocate.

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 15th July, 2004

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order

No. L-20012/309/96-IR (Coal-I), dated, the 6th November, 1997.

**SCHEDULE**

"Whether the demand of the union for the promotion/ placement of Shri J. N. Pandey in clerical Grade 'A' is justified ? If not, to what relief is the workman entitled?"

2. The case of the concerned workman according to Written Statement, submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring Union submitted that the concerned workman is a permanent and senior most clerk of Barora Coal Washery. They submitted that since the workman is performing the job of senior cashier as well as the job of Accounts Assistant to the satisfaction of the management he deserved to be promoted in Clerical Grade 'A' and for which he submitted representation but the management refused to consider his prayer. Accordingly he raised an industrial dispute through the sponsoring union for conciliation which ultimately resulted reference to this Tribunal for adjudication. Accordingly the concerned workman submitted prayer for passing award directing the management to promote him in Clerical Grade 'A' w.e.f. from the date of raising industrial dispute with other consequential benefit.

2. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the Written statement submitted on behalf of the concerned workman. They submitted that as per N.C.W.A. there is no post of clerical Grade 'A'. The actual wage structure as per N.C.W.A. in clerical Grade is (1) Special Grade, (2) Grade I, Grade II and Grade-III. They submitted that the concerned workman is already in special Grade i.e. the highest clerical Grade since 16-11-89. Accordingly, there is no channel for promotion in clerical Grade as per approved cadre scheme under N.C.W.A. and in the circumstances he is not entitled to get any relief in view of his prayer.

**3. POINTS TO BE DECIDED**

"Whether the demand of Union for the promotion/ placement of Shri J. N. Pandey in clerical Grade 'A' is justified ? If not, to what relief is the workman entitled?"

**4. FINDING WITH REASONS**

It transpires from the record that though management with a view to substantiate their claim examined one witness as MW-1 the sponsoring Union did not consider necessary to examine any witness on their part.

As per Written statement submitted on behalf of the concerned workman it transpires that he is attached Barora

Coal Washery as Senior most clerk. It has been submitted by the sponsoring Union that as Senior most clerk the concerned workman not only is discharging his duties as Cashier but also working as Accounts Assistant to the entire satisfaction of the management. They disclosed that in view of service rendered by the concerned workman he deserved his promotion in clerical Grade 'A' and for which he submitted representation to the management to that effect but management refused to consider his prayer.

On the contrary from the submission of the management it transpires that clerical cadre is divided into four promotion channel for a worker viz. clerk special grade, clerk Gr. I, II and III. They submitted further that clerical grade is non-financed cadre and since 16-10-89 he is discharging his duties as clerk special grade in non-financed cadre. In support of this claim they relied on the office order (Ext. M-1). From this office order I find support relating to the claim of the management.

MW-1 during his evidence disclosed that there are two types of cadre in the office for running administration. The said two cadres are finance and non-finance cadre. This witness further disclosed that promotion policies of these two cadre are quite different. They submitted that as the concerned workman is in non-finance cadre he has no scope to get his promotion in Grade 'A'. They further disclosed that the concerned workman never posted as Accountant. Actually he is a cashier and the job of Cashier and Accountant are quite different. Moreover, the concerned workman does not have that qualification which could entitle him to get his promotion in Grade A of the Finance Cadre. This witness submitted that for promotion in Grade A of Finance Cadre a clerk is required to pass CIL Pt. I Accounts examination or the clerk should pass Intermediate examination of I.C.W.A. or C.A. He submitted that the qualification of the concerned workman is only Matriculate. Therefore, considering evidence of MW-1 there is reason to believe that a clerk of non-finance cadre has the scope to get his promotion in Grade-A of the Finance Cadre if he possesses the required qualification as mentioned above.

This fact which MW-1 disclosed in course of his evidence was not denied by the concerned workman. Therefore, onus absolutely on him to establish that in spite of his possessing the required qualification management refused to give him promotion in Grade A, Finance Cadre. It is seen that the concerned workman is Matriculate and for which he being a clerk of non-finance cadre has already got his promotion as clerk special grade. In course of hearing I have failed to find out a single scrap of paper relying on which there is scope to say that management took arbitrary decision in refusing the promotion to the concerned workman in Clerk Grade-A in spite of possessing the required qualification.

I, therefore, hold that the sponsoring Union have lamentably failed to establish the claim of the concerned

workman and for which he is not entitled to get any relief in view of his prayer.

In the result, the following Award is rendered :—

The demand of the Union for the promotion/ placement of Shri J. N. Pandey in Clerical Grade 'A' is not justified. Consequently, the concerned workman is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2054.— औद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14 ) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, धनबाद के पंचाट ( संदर्भ संख्या 43/1999 ) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[ सं० एल-20012/747/97-आईआर (सी-I) ]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/99) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/747/97-IR (C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

REFERENCE NO. 43 of 1999

PARTIES : Employers in relation to the management of Kankance Colliery of M/s. BCCL.

AND

Their Workmen.

PRESENT :

Shri B. Biswas, Presiding Officer.

APPEARANCES :

For the Employers : Shri D.K. Verma,  
Advocate.

For the Workman : Shri P.R. Shukla,  
Authorised Representative.

State : Jharkhand.

Industry : Coal.

Dated, the 13th July, 2004

### AWARD

By Order No. L-20012/747/97-I.R. (C-I) dated 18-1-1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of management of Kankanee Colliery of M/s. BCCL in denial to provide employment to Sh. Oshihar Singh, adopted and dependant son of late Bindeshwari Singh, Ex-Banksman under para 9.4.2 of NCWA-IV is legal and justified? If not, to what relief Sh. Oshihar Singh, the adopted and dependant son of late Bindeshwari Singh is entitled?”

2. The case of the concerned workman according to the written statement submitted by the sponsoring union on his behalf, in brief, is as follows :

The sponsoring union submitted that Bindeshwari Singh was a permanent employee of Kankanee Colliery as a Banksman in the year 1955. He was in employment till his death i.e. upto 8-9-92 at Central Hospital of the management, Dhanbad. They submitted that as the said workman i.e. Bindeshwari Singh was barren person he with the consent of his wife adopted one son of his brother, namely, Oshihar Singh before the Mukhiya of the Gram Panchayat in presence of the responsible villagers for inheriting his movable/immovable property or for any other fiscal gain and also for performing the rituals as per Hindu Customs. The said workman also submitted Form 'F' as prescribed under Payment of Gratuity (Central) Rules, 1972 declaring the present Petitioner, adopted son as his nominee to receive centpercent gratuity amount payable to him for rendering his service under the management in the event of his death. The said workman, Bindeshwari Singh in the year 1987 confirmed to the employer that his family consisted of his wife, Smt. Sampati Devi and his adopted son, Oshihar Singh besides his father and mother in the service excerpt issued to him by the employer. The sponsoring union submitted further that after premature death of Bindeshwari Singh, his adopted son for his own employment as per provision laid down in para 9.4.2 of NCWA-IV on the basis of written and certified documents by Gram Panchayat relating to adoption of Oshihar Singh, the widow of late Bindeshwari Singh also executed a registered adoption deed before the Asstt. Registrar, Basatpur, Siwan on 24-2-1993. They alleged that the management without assigning any reason regretted to provide any employment to the present petitioner, Oshihar Singh and accordingly they submitted that the decision of the management was illegal, arbitrary and against the principle of natural justice. In the circumstances, they raised an industrial dispute before the A.L.C. (C) for

conciliation which ultimately resulted reference to this Tribunal for adjudication.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in the written statement. They submitted that the name of the present person, Oshihar Singh was recorded in the service excerpt as nephew of Bindeshwari Singh. After the death of said Bindeshwari Singh this petitioner made a claim for getting employment under the management declaring himself as adopted and dependant son of late Bindeshwari Singh and produced deed of adoption and decree granted by 2nd Munshif of Siwan in Title Suit No. 276/93. On consideration of said adoption deed they submitted that the said adoption deed was prepared in the year 1993 after the death of Bindeshwari Singh. They alleged that said adoption deed as well as the decree submitted by the petitioner in Title Suit No. 276/93 have been created by the present petitioner for the purpose of this case. They further submitted that compassionate appointment under para 9.4.2 of NCWA-IV does not, ipso facto, create any right for claiming employment on compassionate ground. They categorically submitted that the present petitioner was the nephew of Late Bindeshwari Singh and not his adopted son and as nephew cannot be considered members of the family of the deceased as per law he is debarred from getting any relief in view of his prayer. In the circumstances, the management submitted prayer to pass award rejecting the claim of the concerned workman/petitioner.

### Points to be decided :

4. “Whether the action of management of Kankanee Colliery of M/s. BCCL in denial to provide employment to Sh. Oshihar Singh, adopted and dependant son of late Bindeshwari Singh, Ex-Banksman under para 9.4.2 of NCWA-IV is legal and justified? If not, to what relief Sh. Oshihar Singh, the adopted and dependant son of late Bindeshwari Singh is entitled?”

### Finding with reasons.

5. It transpires from the record that the sponsoring union with a view to substantiate the claim examined the petitioner/workman as WW-1. The management also, on the contrary, in support of their claimed examined one witness as MW-1.

Considering the evidence of both sides and considering the facts disclosed in the pleadings submitted on behalf of the concerned workman it transpires that the petitioner/workman in the instant case has claimed for his employment on compassionate ground as per clause 9.4.2 of NCWA-IV. He submitted that Bindeshwari Singh adopted him as his son and being his adopted son he not only used to live in his family but was very much dependant on him. In support of this claim the concerned workman submitted



the certified copy of the deed, marked Ext. W-2. This witness further disclosed that during life time, his father. Bindeshwari Singh also submitted application before the management to record the name of his adopted son i.e. petitioner. He also made him nominee in the gratuity claim. In spite of fulfilment of all conditions WW-1 alleged that the management rejected his application for employment without assigning any reason. From the deed of adoption alleged to have been executed by Bindeshwari Singh showing clearly that the said deed was executed on 27-2-93 i.e. after death of Bindeshwari Singh. It transpires from this adoption deed that the widow, Smt. Sampati Devi adopted Oshihar Singh as her son after the death of her husband. During his evidence WW-1 admitted that his original father Jamadar Singh and original mother, Smt. Panfula Devi did not sign the said deed of adoption when it was executed, though it is clear that at the time of execution of the said deed they were alive. No evidence is forthcoming on the part of the workman that the said deed of adoption was executed on the full consent and in presence of his original parents. On the contrary, it shows clearly that as his parents had no consent in the matter of execution of that deed of adoption they did not sign the same. Accordingly, in the eye of law this adoption deed has no value at all. However, this matter is not the subject-matter of the instant reference case. It is the specific claim of the concerned workman that Bindeshwari Singh during his life time adopted him as his son and in support of his claim he relied on Form 'F' submitted by the said Bindeshwari Singh before the management in the matter of payment of gratuity in his absence. Excepting claiming so the concerned workman has failed to produce a single scrap of paper to show that said Bindeshwari Singh adopted him as his son during his life time, on the contrary his widow, Smt. Sampati Devi also adopted the petitioner/workman as her son on execution of registered adoption deed after the death of her husband which I consider is absolutely absurd to swallow because of the fact that a person cannot be adopted twice separately by husband and wife without cancelling the 1st deed of adoption. MW-1 during his evidence disclosed that the petitioner/workman claiming himself as adopted son of Bindeshwari Singh submitted application for claiming gratuity after his death. Management refused to pay him gratuity amount of Bindeshwari Singh and for which he filed a petition before the Controlling Authority i.e. A.L.C.(C). Before the Controlling Authority he also claimed the gratuity amount of said Bindeshwari Singh but the Controlling Authority A.L.C.(C) after hearing both sides and also considering all relevant papers dismissed the claim of the petitioner which in course of his evidence was marked Ext. M-1. If the report of the Controlling Authority (Ext. M-1) is taken into consideration it would expose clearly under which circumstances the said Controlling Authority refused the claim of the petitioner/workman for payment of gratuity. If it is taken into consideration that Smt. Sampati Devi, widow

of Bindeshwari Singh adopted the petitioner/workman as his son after the death of her husband, ipso facto, does not create any right by virtue of which he can place his claim for employment on compassionate ground.

6. After careful consideration of all the facts and circumstances I find no hesitation to hold that the petitioner/workman in spite of getting ample opportunity, has failed to produce any cogent paper to show that Bindeshwari Singh during his life time adopted him as his son. Actually, the present petitioner/workman was the nephew of late Bindeshwari Singh and as per provisions of law a nephew cannot be considered as member of the family of the deceased. therefore, when the petitioner/workman has failed to establish that he was a member of the family the question of giving any relief in view of his prayer under clause 9.4.2. of NCWA-IV does not arise and for which he is not entitled to get any relief.

7. In the result, the following award is rendered—

The action of the management of Kankanee colliery of M/s. BCCL in denial to provide employment to Oshihar Singh, adopted and dependant son of late Bindeshwari Singh, Ex-Banksman under para 9.4.2. of NCWA-IV is legal and justified. Hence, the concerned petitioner/workman is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2055.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 38/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-20012/752/97-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/99) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workmen, which was received by the Central Government on 29-7-2004.

[No. L-20012/752/97-IR (C-I)]

S. S. GUPTA, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO.2 AT DHANBAD****PRESENT:**

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section  
10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 38 of 1999

**PARTIES:**Employers in relation to the management of M/s.  
BCCL and their workman.**APPEARANCES:**

For behalf of the workman : None

On behalf of the : Mr. H. Nath,  
Employers Advocate.

State : Jharkhand.

Industry : Coal.

Dated, Dhanbad, the 15th July, 2004

**AWARD**

Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947, has referred the following dispute to this tribunal for adjudication vide their Order No.L-20012/752/97-I.R. (C-I) dated the 18th January, 1999.

**SCHEDULE**

"Whether the action of management of Keshalpur Colliery of M/s. BCCL in dismissing Sh. Amulya Mallik Ex-M/Loader w.e.f. 24-11-95 from the service of the company only on the ground of unauthorised absence from duty from 30-1-95 is legal and justified? If not, to what relief the workman is entitled?"

2. The case of the management according to Written Statement submitted by them in brief, is as follows :—

The management submitted that the concerned workman was a Miner/Loader at Keshalpur Colliery. As he absented from duty without permission or giving any information to the management since 30-1-95 a chargesheet was issued to him for committing misconduct and simultaneously a suspension order was issued to him dated 22-6-95. He was under suspension from 22-6-95 to 28-6-95 and thereafter on 29-6-95 he was allowed to resume his duty. They submitted that though they allowed the concerned workman to resume his duty he did not join and continued to remain absent. Accordingly again a chargesheet was issued to him for committing misconduct on the ground of absentism with effect from 30-1-95. The

concerned workman submitted his reply dt. 21-7-95 but as the reply given by him was not satisfactory, a domestic enquiry was conducted against him by the Enquiry Officer, O.P. Dubey, Sr. Personnel Officer being appointed by the Disciplinary Authority. In course of hearing the concerned workman remained present and full opportunity was given to him to defend his case. They submitted that in course of hearing the concerned workman did not raise any objection against the said Enquiry Officer. Accordingly, he completed hearing of the domestic enquiry fairly, properly and in accordance with the principle of natural justice and submitted his report holding the concerned workman guilty to the charges brought against him. The Disciplinary Authority considering the enquiry report and also considering all other aspects dismissed the concerned workman from service after taking approval of the competent Authority vide letter No. 95/3870 dt. 14-11-95. They submitted that the action taken by the management in dismissing the concerned workman was fully legal and justified and any punishment short of dismissal would have encouraged the other workmen to indulge in such absentism causing not only indiscipline acts in the mines but would have also affected production of coal causing financial loss to the company.

3. Accordingly they submitted prayer to pass award accepting the action of the management as legal and justified in dismissing the concerned workman from service for committing misconduct on the ground of his unauthorised absent from 30-1-95.

4. It transpires from the record that the concerned workman neither appeared and submitted written statement personally or his sponsoring Union came forward challenging the order of dismissal passed by the management. In the circumstances the instant case was taken up for exparte hearing.

**5. POINTS TO BE DECIDED:**

"Whether the action of the management of Keshalpur Colliery of M/s. BCCL in dismissing Sh. Amulya Mallik, Ex-M/Loader w.e.f. 24-11-95 from the service of the company only on the ground of unauthorised absence from duty from 30-1-95 is legal and justified? If not, to what relief the workman is entitled?"

**6. FINDING WITH REASONS:**

It transpires from the record that before taking up hearing of the case on merit it was taken into consideration on preliminary issue whether domestic enquiry held against the concerned workman was fair, proper and in accordance with principle of natural justice.

The said issue on preliminary point was disposed of exparte vide order No. 12 dt. 5-5-04 in favour of the management.

Now the point for consideration is whether the management have been able to substantiate charge brought

against the concerned workman and if so whether he is entitled to get any relief U/s. 11A of the I.D. Act, 1947.

It is the specific allegation of the management that the concerned workman started himself absents from duty with effect from 30-1-95 without prior permission or giving any intimation to the management.

In the circumstances management issued a chargesheet to him and simultaneously kept the concerned workman in suspension from 22-6-95 to 28-6-95. However, lifting that order of suspension they allowed the concerned workman to resume his duty but inspite of giving that opportunity he did not consider necessary to join his duty. Accordingly a fresh chargesheet bearing No. 95/2415 dt. 17-7-95 was issued to the concerned workman to which he gave his reply on 21-7-95. As the reply given by the concerned workman was unsatisfactory a domestic enquiry was held against him in his presence after giving full opportunity to defend his case. In the domestic enquiry as the concerned workman was found guilty the disciplinary authority dismissed him from his service vide letter No. 95/3870 dt. 14-1-95.

The chargesheet issued to the concerned workman and reply given by the concerned workman in response to that chargesheet during evidence were marked as Ext. M1 and M2 respectively. It transpires that first chargesheet was issued for unauthorised absence of the concerned workman with effect from 30-1-95. Simultaneously he was also suspended from his service with effect from 22-6-95 to 28-6-95 and thereafter he was allowed to resume his duty on 29-6-95. Again on 17-7-95 second chargesheet was issued on the self same ground of his remaining unauthorised absence from 30-1-95. In reply the concerned workman disclosed that on the ground of his ailment he could not attend his duty. The concerned workman remained present although in course of hearing of the enquiry proceeding and full opportunity was given to him to defend his case but inspite of getting the said opportunity he did not consider necessary to submit a single medical paper in support of his ailment. In natural course the enquiry officer disbelieved the plea taken by the concerned workman and found him guilty to the charge. In course of hearing the instant reference case the concerned workman also had the scope to adduce evidence with a view to substantiate his claim that for his illness he could not attend his duty and also did not find scope to intimate this fact to the management. Record shows clearly that the concerned workman neither appeared nor considered necessary to submit written statement in support of his claim. Therefore, it is seen that excepting the reply to chargesheet given by him no cogent document has been forthcoming on his part relying on which its credibility could be established. The plea of ailment taken by the concerned workman

without any supporting documents does not make his submission credible. I therefore hold that management have been able to substantiate the charge brought against him.

It transpires from the record that before issuing the order of dismissal disciplinary authority issued show cause notice to the concerned workman (Ext. M. 8) giving him opportunity to submit his reply within 72 hours of its receipt. The concerned workman did not submit any reply and for which the disciplinary authority after considering all aspects by letter dt. 22/24-11-95 (Ext. M-10) dismissed the concerned workman from his service.

Now the point for consideration is whether the concerned workman is entitled to get any relief U/s. 11A of the I.D. Act, 1947. Section 11A of the I.D. Act speaks as follows :—

“Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

Therefore, as per this provision it is to be looked into whether the order of dismissal passed by the management was justified or not.

My discussion above has exposed clearly that full opportunity was given to the concerned workman to explain the reason of his unauthorised absence from duty. He took the plea of his ailment for causing absence from duty but failed to produce a single scrap of medical paper in its support. Accordingly, there is sufficient reason to believe that the plea of ailment taken by him is a created one. It should be borne into mind that in the place of work a workman is expected to move abiding by its norms. There is no scope to move whimsically as of the choice of a workmen. Here in the instant case it is seen that the concerned workman acted in a most indisciplined way and did not care at all to maintain the norms of the company being dutyful workman. He did not care even to intimate the management about the reason of his absence. Moreover, there is no sign at all that the



concerned workman was repentant for the misdeed committed by him. Accordingly, after careful consideration of all the facts and circumstances I have failed to find out any cogent reason to say that the order of punishment issued by the Disciplinary Authority was not justified. In view this position I do not find any reason to modify the order of punishment inflicted on the concerned workman for which he is not entitled to get any relief.

In the result, the following Award is rendered exparte.

“The action of the management of Keshalpur Colliery of M/s. BCCL in dismissing Sh. Amulya Mallik, Ex-M/Loader w.e.f. 24-11-95 from the service of the company only on the ground of unauthorised absence from duty from 30-1-95 is legal and justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 282/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[ सं० एल-20012/144/99-आईआर (सी-1) ]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 282/99) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/144/99-IR (C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute  
Under Section 10(1)(d) of the I.D. Act, 1947.

24339/04-14

#### Reference No. 282 of 1999

**PARTIES:** Employers in relation to the management of M/s. BCCL and their workman.

#### APPEARANCES:

On behalf of the Workman : Mr. D. Mukherjee,  
Secretary,  
Bihar Colliery Kamgar  
Union.

On behalf of the Employers : Mr. R. N. Ganguly,  
Advocate.

State : Jharkhand.

Industry : Coal.

Dated, Dhanbad, the 15th July, 2004

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/144/99-IR(C-I), dated, the 16-7-99.

#### SCHEDULE

“Kya B.C.C.L Key pravandhtantra Dwara Anadhikar Anupshiti key arop mey Shri Degan Mahra ko seva sey nikala jana uchit, vidhibat evam nayasangat hai? Yadi nahi to karmkar kis rahat key patra hai?”

2. The case of the concerned workman according to Written Statement submitted by the sponsoring union on his behalf in brief is as follows :—

They submitted that the concerned workman was U.G. Loader at Kessargarha Colliery. Unfortunately he fell ill owing to T.B. and for which he was forced to remain absent from duty for his treatment after giving due information to the management. Further he submitted prayer before the management to sanction leave for his treatment. But the management instead of sanctioning leave issued chargesheet dt. 30-7-90 to him with the allegation of committing misconduct on the ground of his alleged unauthorised absence from duty. They alleged that inspite of denying the charge brought against him exphatically management conducted domestic enquiry against him through the enquiry officer. The said enquiry officer conducted the domestic enquiry with a view to victimise him illegally and thereafter relying on the report submitted the said enquiry officer dismissed him from his service. They alleged that the officer who issued the chargesheet and also who issued the order of dismissal was not competent person to issue the same for which the entire proceeding including order of dismissal is liable to be quashed. Accordingly he submitted representation to the management for his reinstatement

in service recalling the order of dismissal but the management refused to do so and for which he raised an industrial dispute before the ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication. The sponsoring Union accordingly submitted prayer to pass award directing the management to reinstate him in service with full back wages and other consequential relief.

3. Management on the contrary after filing Written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the Written Statement submitted on behalf of the concerned workman.

They submitted that the concerned workman who was a miner/loader at Kessurgarh Colliery started absenting from duty unauthorisedly with effect from 15-4-83 without giving any information or taking any permission. Accordingly, a chargesheet was issued against him dt. 30-7-90 with the charge of committing misconduct on the ground of unauthorised absence from his duty w.e.f. 15-4-83. On receipt of the said charge sheet concerned workman submitted his reply admitting the allegation brought against him but submitted that the reason of such absence was for his sufference from T.B. w.e.f. that date. They submitted that as the reply given by the concerned workman was not satisfactory Disciplinary authority decided to hold domestic enquiry against him and accordingly appointed S.K. Singh, Dy. Personnel Manager as Enquiry Officer. After taking charge of the enquiry proceeding the said enquiry officer fixed 30-8-90 as the date for hearing proceeding and due intimation was given to the concerned workman to attend the enquiry proceeding through his co-worker. They submitted that hearing of the enquiry proceeding was taken up in presence of the concerned workman and full opportunity was given to him to defend his case and also to adduce evidence on his part. The concerned workman during hearing also did not raise any objection against the enquiry officer to proceed with the hearing. Accordingly, after completion of the hearing of enquiry proceeding fairly and properly the said enquiry officer submitted his report holding the concerned workman guilty to the charges levelled against him and thereafter the Disciplinary authority considering the report and also considering all other aspect dismissed the concerned workman from his service vide letter dt. 15-12-90. They submitted that dismissal of the concerned workman from his service was legal and bonafide and accordingly he is not entitled to get any relief in view of his prayer.

#### 4. Points to be Decided

“Kya B.C.C.L. Key pravandhtantra Dwara Anadhikar Anupshtithi Key Arop mey Shri Degan Mahra Ko Seva Sey Nikala Jana Uchit, vidhibat Evam Nayasangat Hai? Yadi Nahi to Karmkar Kis Rahat

Key Patra Hai?”

#### 5. Finding with Reasons

It transpires from the record that before taking up hearing of this case on merit it was taken into consideration if domestic enquiry held against the concerned workman by the Enquiry Officer was fair, proper and in accordance with the principle of natural justice. The said issue was decided in the affirmative vide order No. 12 dt. 17-12-03.

Accordingly here the point for consideration is whether the management have been able to substantiate the charge brought against the concerned workman and if so whether the concerned workman is eligible to get any relief u/s. 11A of the I.D. Act, 1947.

The charge sheet (Ext. M-1) shows that management issued the same to the concerned workman dt. 30-7-90 with direction to submit his explanation within 48 hours of the receipt of the same in view of the charge brought against him for committing misconduct as per clause 27(12) of the Certified Standing Order applicable to the workman under the management. It is the specific allegation of the management that the concerned workman started remaining himself absent from duty with effect from 15-4-1983 unauthorisedly and without giving any information or taking permission. From the report of the Enquiry Officer (Ext. M-9) it reveals that he was present at the time of hearing the enquiry proceeding but he did not adduce any defence witness on his part. The report further speaks that though the concerned workman did not inform the management before going on leave submitted that as he was suffering from T.B. he started remaining himself absent from duty with effect from 15-4-83. It reveals further from this report that the concerned workman in support of his ailment from T.B. submitted seven medical papers. It is really curious to note that the enquiry officer in his report did not make any whisper whether he considered those medical papers in support of his claim of illness. Even he did not utter a single word in his report if he disbelieved those medical papers which the concerned workman relied on. Therefore, in absence of any observation to this effect there is sufficient reason to arrive into conclusion that the concerned workman actually was lying ill owing to T.B. and that compelled him to remain himself absent from duty. The enquiry officer found the concerned workman guilty to the charge taking the ground that he started absenting from duty without prior permission and giving any intimation to the management without giving any importance to the medical papers submitted by him. Concerned workman in pleading disclosed that he intimated the fact of his ailment to the management though in course of hearing he failed to establish the said fact.

As per standing order it will be considered as misconduct if a workman remains himself absent from duty for more than 10 days without prior permission or without giving any intimation to the management. Therefore, if this

aspect is taken into consideration in that case there is scope to say that the concerned workman committed misconduct for enjoying unauthorised leave. But before coming to a definite conclusion in this regard it will also be looked into whether such absence was actually intentional or it was beyond his control. It has been exposed that the concerned workman being a T.B. patient was compelled to remain himself absent from duty. It can be easily guessed what mental impact comes in when a person gets knowledge from which serious ailment he is suffering from. Therefore, if this aspect is looked into there is scope to say that he deserved sympathetic view from the enquiry officer. It is seen that the enquiry officer in a stereotype manner submitted his report holding him guilty to the charges brought against him. The disciplinary authority also considered the report submitted by the Enquiry Officer but they also did not give any importance to the medical papers submitted by the concerned workman. On the contrary dismissed the concerned workman from his service just relying in the report of the enquiry officer without proper application of mind. If all these aspects are taken into consideration carefully there is scope to say that the management did not follow the principle of natural justice in dismissing the concerned workman from service. Apart from this fact it is noticed from the charge sheet that the concerned workman was directed to submit his reply within 48 hours of its receipt. As per clause 27.1 of the Certified Standing Order 48 hours time is given where for committing misconduct minor punishment is given if the charge is proved. In the instant case it is seen that the management in the matter of awarding punishment did not consider this aspect which I consider was arbitrary and not in conformity with the principle of natural justice.

Apart from the facts discussed above Learned Advocate for the concerned workman submitted that as per certified Standing order Deputy C.M.E. had no legal authority either to issue chargesheet or to dismiss the concerned workman from his service. The certified Standing Order has exposed clearly that the Manager/Agent is the only competent authority to issue chargesheet and also being Disciplinary authority is competent to issue any order of dismissal. Accordingly Learned Advocate for the concerned workman submitted that as per certified standing order as the Dy. C.M.E. had no authority to issue charge sheet the entire proceeding is liable to be quashed. Learned Advocate further in support of his claim relied on the decision referred to in PLJR 1992 (2) Page 69. In the said decision in Bhagat Mallick Vs. The Bharat Coking Coal Ltd. His Lordship in para 14 to 19 observed as follows :—

**Para-14** Section 2 (d) of the employment Standing Orders, Act, 1946 defines 'employer to mean'

"2(d) employer means the owner of an industrial establishment to which this Act for the time being applies, and includes (i) in a factory, any person named under clause (f) of sub-section (1) of

Section 7 of the Factories Act, 1948, as manager of the factory;

(ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the department;

(iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment."

**Para-15** It is not in dispute that a person who does not come within the purview of the definition of employer being not an appointing authority or a disciplinary authority, he cannot be an employer for putting under suspension.

**Para-16** It is true that by reason of delegation of power as contained in Annexure-A to the supplementary counter affidavit, the Deputy C.M.E (TRG) have been delegated with full powers to take disciplinary action including termination, removal from service and other minor penalties, but, the said delegation of power, as indicated here in before, was in accordance with the prescribed Rules/Standing Orders in respect of the Wage Board Employees working under him. It is not the case of the respondent that the respondent No. 3 was responsible to the owner for supervision and control of the industrial establishment. An agent within the meaning of Mines Act, 1952 is a person who is responsible to the owner for supervision and control of the mine. An Agent appointed under the Mines Act is the representative of the owner in relation to a mine.

**Para-17** As noticed hereinbefore the new Standing Orders certified under the Industrial Employment Standing Orders Act and which is applicable in the case of workmen of respondent No. 1 has come into force with effect from 20th October, 1990.

**Para-18** As in terms of the said certified Standing Order, the employer as defined in Clause 6.13 thereof has the same meaning as contained in Section 2(d) of the Industrial Employment Standing Orders Act, 1946, the purported delegation of powers as contained in Annexure-A to the supplementary counter affidavit must be held to have lost its force.

**Para-19** The respondent despite opportunity having been given to them did not file any affidavit stating that respondent No. 3 was appointed as an 'agent' of Ena colliery.

Agents in respect of a colliery have to be appointed in terms of Section 2(c) of the Mines Act, 1952. The statement made in the counter affidavit of the respondents to the effect that Deputy Chief Mining Engineers are 'agents' cannot ex facie be accepted in as much as there are procedures for appointments of an agent and appointment of any person as an agent has to be intimated to the Directorate General of Mines Safety.

Therefore, onus absolutely shifted on the management to establish that Dy. C.M.E. was actually Agent of Kessurgah Colliery and by virtue of his designation he was competent enough to issue chargesheet not only but also was legally entitled to act as Disciplinary Authority. Learned Advocate for the management though submitted that Dy. C.M.E. was vested with the power to act as Agent has failed to produce a single scrap of paper to that effect. Accordingly, as per provision laid down in the certified Standing Order and also relying on the decision referred to above there is sufficient scope to say that Dy. C.M.E. not being an Agent exceeding his limit not only issued charge sheet to the concerned workman but also dismissed him from service being disciplinary authority.

In view of the facts of circumstances discussed above I hold that the chargesheet issued to the concerned workman under signature of Dy. C.M.E. is to be considered as bad in law and further the order of dismissal issued to him also under his signature is liable to be vitiated.

In the result, the following award is rendered :—

"The action of the management of BCCL in removing Shri Degan Mahra from his services on the allegation of unauthorised absence from duties is not legal and justified. Consequently, the concerned workman is entitled for reinstatement to his original job with effect from the date of his dismissal without any back wages and consequential benefits. However, he will get the benefit of drawing wages and other relief from the date of passing his Award with continuity of service."

Management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2057.—औद्योगिक विवाद अधिनियम, 1947 (1947-14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ब्रम

न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 123/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं. एल-20012/258/96-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 123/97) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/258/96-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

#### REFERENCE NO. 123 OF 1997

**PARTIES:** Employers in relation to the management of East Bhuggatdih Colliery of M/s. BCCL.

#### AND

Their Workman.

**Present:** Shri B. Biswas, Presiding Officer

#### APPEARANCES:

For the Management : Shri H. Nath, Advocate.  
For the Workman : Shri D. Mukherjee,  
Secretary, Bihar Colliery  
Kamgar Union  
State : Jharkhand : Industry : Coal

Dated, the 13th July, 2004

#### AWARD

By Order No. L-20012/258/96-IR(C-I) dated the 7th/10th November, 1997 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of East Bhuggatdih Colliery of M/s. BCCL in not regularising Smt. Sumi Mundian, Sh. Mahadeo Bauri and Sri Sukhdeo Bhuiya, Clay Cartridge Makers working within the premises of East Bhuggatdih Colliery under Kustore Area No. VIII of M/s. BCCL is justified? If not, to what relief are these workmen entitled?"

2. The case of the concerned workmen according to the written statement submitted by the sponsoring union on their behalf, in brief, is as follows :

It has been submitted by the sponsoring union that the concerned workmen were engaged by the management to manufacture clay cartridges as per direction and authorisation and under control and supervision of the management of East Bhuggatdih Colliery. The job which they used to perform was permanent and perennial in nature. They alleged that the wage which the management used to pay for manufacturing clay cartridge was far below the rate of wages as per recommendations of Wage Board and NCWA. Accordingly, through the sponsoring union they submitted representation to the management several times for their regularisation as Clay Cartridge maker and also demanded for payment of wages atleast as per Category-I wages with retrospective effect, but to no effect. Accordingly, they raised an industrial dispute through sponsoring union before the A.L.C.(C) for conciliation which ultimately resulted reference to this Tribunal for conciliation. The sponsoring union accordingly submitted prayer for passing award directing the management to regularise the concerned workmen as Clay Cartridge Mazdoor with retrospective effect along with back wages and consequential benefits.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workmen. They submitted that the concerned workmen never worked at East Bhuggatdih Colliery being engaged by the management or through any contractor for manufacturing of clay cartridge. Accordingly, there is no question at all of their making clay cartridges within the premises of East Bhuggatdih Colliery and for which they are not entitled to get any relief. They submitted further that Bihar Colliery Kamgar Union raised an industrial dispute before the A.L.C.(C) vide letter dated 27-8-91 that the concerned workman as clay cartridge maker in the colliery were engaged by the management since long without giving the date of their employment. The Personnel Manager, Kustore Area on receipt of the letter from the A.L.C.(C), Dhanbad dated 20-11-91 explained the facts of the case and requested the A.L.C.(C) to call for the relevant document from the union to investigate the matter. The union submitted its rejoinder on the management's comment, but again did not give any date and year of employment of the concerned workmen and other connected papers. They submitted that the claim of the concerned workmen finds no basis at all and for which their claim is liable to be rejected.

#### Points to be decided :

4. "Whether the action of the management of East Bhuggatdih Colliery of M/s. BCCL in not regularising Smt. Sumi Mundian, Sh. Mahadeo Bouri and Sri Sukhdeo Bhuiya,

Clay Cartridge Makers working within the premises of East Bhuggatdih Colliery under Kustore Area No. VIII of M/s. BCCL is justified? If not, to what relief are these workmen entitled ?"

#### Finding with reasons :

5. It transpires from the record that the sponsoring union with a view to substantiate their claim examined one of the concerned workmen as WW-1. The management, on the contrary, examined three witnesses on their part as MW-1, MW-2 and MW-3 in support of their claim.

WW-1 during his evidence disclosed that they started working at East Bhuggatdih colliery about 15 years back as clay cartridge maker, but the management without assigning any reason stopped them from work during the pendency of the conciliation proceeding before R.L.C.(C), Dhanbad. They disclosed that they used to manufacture clay cartridges in the premises of the management which are used for blasting purpose in the mine for extraction of coal. They further submitted that the management used to supply materials for making the said clay cartridges and also submitted that under the management they worked continuously for more than 240 days in each year. The contention of WW-1 is that the management used to pay their wages for the work done by them, but never paid wages as per rules. During cross-examination this witness further admitted that they had no paper relating to their appointment for manufacturing clay cartridge by the management. They also did not have any paper to show that they used to work under the management and put more than 240 days attendance in each year. This witness though claimed during evidence that they had paper to show about receipt of wages from the management against the work done by them but failed to submit any paper to that effect.

On the contrary, MW-1 during his evidence disclosed that he was posted at East Bhuggatdih as Agent during the period from 1991 to 1994. He submitted that they have their permanent clay cartridge makers who manufacture clay cartridge in the said colliery for the use of the management. However, he submitted that in case of any exigency or deficiency they used to place order to supplier, Jagdish Tanti to supply clay cartridge from outside. This witness also categorically denied the fact that they ever engaged the concerned workmen for manufacturing clay cartridges at their colliery. MW-2 also in course of his evidence corroborated the fact disclosed by MW-1 in the matter of placing order to Jagdish Tanti and Mahendra Kaushik for supply of clay cartridges. He disclosed that after supply of clay cartridges those two persons used to submit bills and the payment used to be made through vouchers. MW-3 during his evidence also categorically denied the fact in relation to the demand of the concerned workmen about their working as clay cartridge makers at East Bhuggatdih Colliery. This witness disclosed that they have their own workmen to manufacture clay cartridges



permanently. However, in case of exigency or urgent need during rainy season they used to purchase clay cartridges absolutely on temporary basis from outside. Considering the evidence on record it is clear that clay cartridges are required for blasting purpose in the mine with a view to extract coal. It further transpires from the evidence of the management that they maintain their own permanent workers who are engaged for manufacturing clay cartridges. However, they admitted that in case of exigency or urgent need they used to place order to Jagdish Tanti and Mahendra Kaushik for supply of clay cartridges and after supply on the basis of bills submitted by them the management used to meet up the same. On the contrary, it is the claim of the sponsoring union that the concerned workmen were engaged by the management for long years for the purpose of manufacturing clay cartridges inside the premises of the said colliery. It is really curious to note that the sponsoring union has failed to disclose the date or year when the concerned workmen started working under the management for manufacturing of clay cartridges. It is also not clear from the evidence of the concerned workmen as well as from the facts disclosed in the written statement how long they carried on such work. It is the specific claim of WW-1 in course of her evidence that the management used to pay wages for manufacturing clay cartridges regularly but in support of their claim they failed to produce a single scrap of paper. No document is forthcoming on the part of the concerned workmen to establish when they were engaged by the management for the said purpose.

On careful consideration of A.L.C.(C) file it transpires that the Personnel Manager, Kustore Area vide letter dated 20-11-1991 requested the A.L.C.(C) to ask the sponsoring union to produce necessary documents including the proof that the workmen are the members of the union and they had ever worked in the said colliery and have been paid any wages for working there in support of their claim. I have carefully considered the entire A.L.C.(C) file and it has come to my notice that the sponsoring union failed to produce any such paper to show that the concerned workmen were actually engaged by the management and they were duly paid for the work done by them. It is seen from the said record that an enquiry was conducted at East Bhuggatdih Colliery of M/s. BCCL on 20-7-1995 on the part of A.L.C.(C). During enquiry it revealed that on different dates upto May, 1993 one Jagdish Tanti supplied clay cartridges to the management. The payment also had been made to him by the colliery authority upon the voucher/pay order duly issued by the management. In course of enquiry the concerned workman and some other persons were examined by the Enquiry Officer and from their statements it transpires that not only the concerned workmen but also their mother for a long period were engaged for manufacturing clay cartridges for the use of this colliery. It has also been revealed that the present workmen used to work under Jagdish Tanti for the purpose of manufacturing clay cartridges. Therefore, it reveals

clearly that the concerned workmen used to manufacture clay cartridges for a long period not under the management but under Jagdish Tanti. It is clear from the evidence of the management that they used to purchase clay cartridges in case of exigency and urgent need from Jagdish Tanti and one Mahendra Kaushik. There is no denial on the part of the sponsoring union that the management had no permanent workers for manufacturing the said clay cartridges in the colliery. Therefore, if it is taken into consideration that the concerned workmen also were engaged for manufacturing clay cartridges they were engaged for manufacturing the same in addition to the work done by the permanent workmen meant for the same. I have already discussed above that the sponsoring union though claimed engagement of the concerned workmen for manufacturing clay cartridges by the management have failed to produce any cogent paper in that regard. On the contrary, it reveals that the management used to pay bills submitted by Jagdish Tanti for supply of clay cartridges. It also reveals from the enquiry papers of A.L.C.(C) record that the concerned workmen used to work under Jagdish Tanti for manufacturing clay cartridges. Ugresh Tanti whose statement was recorded during hearing of enquiry by ALC exposed clearly that it was Jagdish Tanti who used to supply clay cartridges to the management. His statement further reveals that the concerned workmen were deployed by the said Jagdish Tanti who happened to be his brother for supply of clay cartridges. Nowhere within the four-corners of the ALC(C) record it reveals that the concerned workmen were engaged by the management. On the contrary, from the register of the management it has been exposed clearly that time to time upto May, 1993 they purchased clay cartridges from Jagdish Tanti. Therefore, it is to be looked into if Jagdish Tanti engaged the concerned workman for manufacturing clay cartridges or not. If the statements of the concerned workmen which had been recorded in ALC(C) record are taken into consideration it will expose clearly that Ugresh Tanti employed them for manufacturing clay cartridges and against their work he used to pay them wages at the rate of Rs. 10. The statement of Ugresh Tanti also was recorded. It reveals that these workmen actually worked under his brother, Jagdish Tanti for manufacturing of clay cartridge. Therefore, in no circumstances there is scope to draw any conclusion that the concerned workmen worked at East Bhuggatdih Colliery being engaged by the management. On the contrary, it reveals that they worked under Ugresh Tanti/Jagdish Tanti for manufacturing clay cartridges. Considering the claim I should say that onus absolutely rests on the concerned workmen to establish the same. I have carefully considered all the materials on record and the same has duly been discussed above, but I have failed to find out any such material ingredient relying on which there is scope to say that they used to manufacture clay cartridges being engaged by the management. There is no dispute to hold that the concerned workmen used to

manufacture clay cartridges but manufacturing of clay cartridges is one thing and manufacturing of clay cartridges being engaged by the management is other thing. It was their specific claim that being engaged by the management for long years they used to manufacture clay cartridges but they have failed to substantiate this claim reasonably.

Accordingly, I hold that the concerned workmen are not entitled to get any relief.

6. In the result, the following award is rendered—

The action of the management of East Bhuggatdih Colliery of M/S. B.C.C. Ltd. in not regularising Smt. Sumi Mundian, Sh. Mahadeo Bouri and Sri Sukhdeo Bhuiya, Clay Cartridges Makers working within the premises of East Bhuggatdih Colliery under Kustore Area No. VIII of M/S. B.C.C. Ltd. is justified. hence, the concerned workmen are not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2058.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसंरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 122/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं. एल-20012/62/97-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 122/98) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/62/97-IR (C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 122 OF 1998

PARTIES: Management of M/s. BCCL and their workman.

#### APPEARANCES:

On the behalf of the Workman : Shri N. G. Arun,  
Authorised  
Representative

On the behalf of the Employers : Mr. H. Nath,  
Advocate.

State : Jharkhand

: Industry : Coal

Dhanbad, the 2nd July, 2004

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/62/97-I.R.(Coal-I), dated, the 22nd April, 1998.

#### SCHEDULE

“Whether the action of management of Sendra Workshop under Sijua Area of BCCL, in denying the promotion/upgradation of Shri Shubh Chandra Jha, Auto Electrician to the post of T & S Grade ‘B’ is justified? If not, so, to what relief the said workman is entitled to?”

2. The case of the concerned workman according to Written Statement, submitted by the sponsoring Union on his behalf in brief is as follows :—

They sponsoring Union submitted that the concerned workman an Auto Electrician has been working as Supervisor after duly authorised by the Area Manager (Transport) Sijua Area vide letter No. SA/AWS/90/11 dt. 5-1-90 continuously at Sendra Auto Workshop. But uptill now his designation has not been changed and he has not been paid wages of Technical Grade ‘B’. They submitted that qualification of the concerned workman is A and two years I.T.I. trained.

They alleged that though management have given designation and Technical Grade ‘B’ wages to other workmen who are juniors to the concerned workman refused to designate him on the same grade inspite of submitting representation without assigning any cogent reason. Accordingly he raised an industrial dispute through sponsoring Union for conciliation which ultimately resulted reference to this Tribunal for adjudication. Concerned workman accordingly submitted prayer to pass award directing the management to provide him with T & S Grade ‘B’ from the date of his authorisation dt. 5-1-90 along with back wages and other consequential relief.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the Written statement submitted on behalf of the concerned workman. They submitted that the concerned workman was an Auto Electrician at Sendra Auto Workshop and he although performed his duty in the same capacity. They disclosed that Ex-Area Manager (Transport) Sijua area exceeding his jurisdiction illegally issued an order on 5-9-90 authorising the concerned workman to work as a Supervisor. As the said Ex-Area Manager had no jurisdiction to pass such order it has no binding effect on



the management to follow. They disclosed that rules of promotion of the workmen are governed by N.C.W.A. and not on the basis of any authorisation to work by an officer who is not legally competent to pass such order.

Accordingly management submitted prayer to pass award rejecting the claim of the concerned workman.

#### 4. POINTS TO BE DECIDED

“Whether the action of management of Sendra Workshop under Sijua Area of BCCL, in denying the promotion/upgradation of Shri Shubh Chandra Jha, Auto Electrician to the post of T & S Grade ‘B’ is justified? If not, so, to what relief the said workman is entitled?”

#### 5. FINDING WITH REASONS

It transpires from the record that the sponsoring Union with a view to substantiate the claim examined the concerned workman as MW-1 while management also with a view to substantiate their claim examined two witnesses as MW-1 and MW-2.

Considering the facts disclosed in the pleadings of both sides and also considering evidence on record I find no dispute to hold that the concerned workman was posted at Sendra Auto Workshop Sijua Area as Auto Electrician. Concerned workman during his evidence disclosed that he is Matriculate and passed I.T.I. The I.T.I. certificate during his evidence was marked as Ext. W-1. It is his contention that on 5-1-90 vide letter No. SA/AWS/90/11 the then Area Manager (Transport) authorised him to work as Supervisor at Sendra Auto Workshop. The authorisation letter during his evidence was marked as Ext. W-2. He disclosed that his authorisation to work as Supervisor was due to need and exigency. He disclosed that as per N.C.W.A. the post of Supervisor comes under Tech. & Supervisor Grade ‘B’. It is the contention of the concerned workman that management though promoted Dinesh Prosad Singh in T & S Grade ‘B’ who was junior to him refused to regularise him in the said Grade though he discharged his duties continuously for more than 240 days in a year since 1990, being authorised by the Area Manager (Transport).

MW-1 on the contrary during his evidence though admitted the fact of concerned workman’s posting at Auto Workshop Centre, Sendra categorically denied the fact of his posting there as supervisor. He disclosed that the said worker was an Auto Electrician in the said Auto Workshop. He further disclosed that Area Manager (Transport) had no authority to pass any order for authorising any person to work as Supervisor. He further disclosed that as per cadre scheme promotion to the post of Supervisor is considered.

MW-2 during his evidence disclosed that from 1991 to 1998 and thereafter from 1999 to 2001 he was posted at Auto Workshop Sendra under Sijua Area as Area Manager (Transport). He further submitted that the concerned

workman during the said period worked under him as Auto Electrician. He further disclosed that so long he was posted there as Area Manager (Transport) he found him to discharge his duties as Auto Electrician and not as Supervisor. He submitted that T & S Grade ‘B’ is a cadre post and the same is filled up as per recommendation of D.P.C. This witness further submitted that Area Manager (Transport) does not hold any authority and power to issue any order authorising any person to work as Supervisor. It further transpires from his evidence that the concerned workman was in Cat. V so long he worked under him.

Considering the document marked as Ext. W-2 it transpires that said authorisation letter was issued on 5-1-90 by the then Area Manager S. N. Jha. From the evidence of MW-2 it transpires that he joined the said Auto Workshop in the year 1989 as Senior Executive Engineer and thereafter in the year 1991 as Area Manager (Transport). No incriminating material is forthcoming to show that MW-2 had no attachment with Auto Workshop Sendra, since 1989 as Executive Engineer and since 1991 as Area Manager, Transport. From the evidence of this witness it transpires clearly that he never forced the concerned workman till 2001 to work as Supervisor.

Considering Ext. W-2 there is no scope to deny that the concerned workman was authorised to work as Supervisor at Auto Workshop, Sendra. On close scrutiny it will expose clearly that not by any office order but through a letter the then Area Manager authorised the concerned workman to work as Supervisor without his fitment in the pay scale of supervisor. Concerned workman during his evidence has failed to produce that he used to draw his wages in the scale of pay of Supervisor. Therefore, there is sufficient reason to believe that he used to draw wages of Cat. V as Auto Electrician. In natural course the question which will crop up is why without his fitment in the pay scale of supervisor he accepted the offer to work as supervisor. No incriminating material is forthcoming to the effect that the concerned workman claimed difference of wages for discharging his higher responsibility as Supervisor. The concerned workman had ample scope to examine Mr. S. N. Jha the then Area Manager (Transport) with a view to substantiate his claim. He has also failed to produce a single scrap of paper to show that for years together within the knowledge of MW-2 who was Area Manager he discharged his duties as supervisor.

MW-2 who was Area Manager, Transport during his evidence categorically disclosed that as the post of Supervisor is a Cadre post and the same is filled up as per recommendation of D.P.C. the Area manager (Transport) had no authority to authorise any worker to work as Supervisor. Therefore, onus absolutely was on the concerned workman to establish that S.N. Jha, the then Area Manager, was very much competent to issue such order ignoring specific instruction given in N.C.W.A. for filling up the post of supervisor. It is clear that concerned

workman has failed to substantiate this fact. It transpires that MW-2 was attached to the said workshop since 1989 not only in the capacity of Senior Executive Engineer but also in the capacity of Area Manager being departmental head. He categorically submitted that the concerned workman worked under him till 2001 as Auto Electrician in Cat. V and not as Supervisor. In view of averment made by MW-2 the concerned workman cannot avoid his responsibility to disprove his claim by adducing cogent evidence but he could not succeed.

It is the contention of the concerned workman that management issued promotional order in favour of Dinesh Prosad Singh in T & S Grade-B ignoring his regularisation inspite of his discharging his duties in the post of supervisor since January, 1990 continuously though he was junior to him. MW-1 during his evidence admitting the fact of giving promotion of Dinesh Prosad Singh in Grade-B disclosed that Sri Singh was in Excavation Cadre and not in Electrical and Mechanical Cadre. Ld. Advocate for the management in course of hearing submitted that by way of promotion Grade-B was provided to Sri Singh While the concerned workman claimed his regularisation in Grade-B relying on a letter dt. 5-1-90 issued by the then Area Manager who had no legal authority to issue the same. Therefore, on the basis of an illegal authorisation letter no such claim as made by the concerned workman could be considered at all. Management also categorically denied the claim of the concerned workman to discharge his duties as supervisor. I have already discussed above that inspite of getting opportunity the concerned workman has failed to produce a single scrap of paper to show that he discharged his duties as Supervisor. The case of Dinesh Prosad Singh in the matter of promotion cannot be equated with the claim of the concerned workman and for which there is no scope to give him relief relying on the same. As the post of Supervisor is a cadre post he will be considered eligible to get his promotion in T & S Grade-B subject to fulfilment of conditions as laid down in N.C.W.A. and not on the basis of any authorisation letter which has no legal value in the eye of N.C.W.A.

Accordingly, in view of my discussion above I hold that the concerned workman has failed to substantiate his claim lamentably and for which he is not entitled to get any relief in view of his prayer.

In the result, the following Award is rendered :—

“The action of management of Sendra Workshop under Sijua Area of BCCL, in denying the promotion/upgradation of Shri Shubh Chandra Jha, Auto Electrician to the post of T & S Grade ‘B’ is justified ? Consequently, he is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का.आ. 2059.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 137/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-20012/243/2000-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 137/2000) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/243/2000-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT :

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I. D. Act, 1947

REFERENCE NO. 137 OF 2000

#### PARTIES :

Employers in relation to the management of  
M/s. BCCL and their workmen

#### APPEARANCES :

On behalf of the workman : Mr. S.C. Gaur, Advocate

On behalf of the employers : Mr. H. Nath, Advocate.

State : Jharkhand : Industry : Coal

Dhanbad, the 7th July, 2004

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/243/2000-I.R.(Coal-I), dated, the 12th September, 2000.

## SCHEDULE

"KYA MESSRS BHARAT COKING COAL LIMITED KEY PRAVANDHAN DWARA KARMAKAR SHRI KRISHNA PRASAD KARYARAT SAHAYAK VANDARPAL, MOONIDIH REGIONAL STORE KI SEVAYA KO NIYAMIT NA KARNA NAYA SANGATEVAM VIDHISANGATHAI? YADINAH TO KARMAKAR KIS LABH KO PANEY KA HAKDAR HAI TATHA KIS TARIKH SE?"

2. The case of the concerned workman according to Written statement, submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman got his appointment as mazdoor in Cat.-I on 28-10-86 and subsequently he was regularised as helper in Cat.-II. They submitted that the concerned workman is an M.A. (1st Class) in Philosophy, obtained diploma in Labour and Social Welfare besides I.T.I. Accordingly he submitted a representation to the General Manager, Moonidih Area with a prayer for a clerical job. They disclosed that the G.M. considering his qualification recommending his case forwarded his note to the Director (Personnel) B.C.C.L. for his fitment in clerical job. In response to that recommendation, the Headquarter, BCCL informed Dy C.P.M., Western Jharia Area, Moonidih to the effect that the competent authority had no objection to provide clerical job to the concerned workman if his case is considered along with others.

They disclosed that on receipt of the letter from Headquarter on the subject referred to above and also on the basis of application submitted by the concerned workman, the G.M. Moonidih area issued order to Dy. C.P.M. of the area to transfer the service of the concerned workman to the Regional stores where clerical vacancy existed. Accordingly, Dy. C.P.M. issued order of transfer in the month of January, 1998 directing him to join under the Materials Manager, Regional Stores. They disclosed that the Materials Manager, Regional Stores utilised the service of the concerned workman in different clerical jobs in the store and subsequently deputed him to assist the shed incharge, Regional Stores to identify the items lying under sheds for more than ten years under Revenue head.

They submitted that the concerned workman being a clerical staff as well as Assistant Store Keeper contributed his service in the stores to the best of his ability. They submitted that after continuously working for more than one year at Regional Stores as Asstt. Store Keeper, as clerical Grade-II job against clear vacancy he submitted representation to the management for giving him proper grade and wages of Asstt. Store Keeper, Clerical Grade-II but to no avail. They alleged that even management denied payment of difference of wages of clerical Grade-II and Cat.-II. Accordingly he raised industrial dispute through sponsoring Union for conciliation which ultimately resulted

reference to this Tribunal for adjudication. The sponsoring union as such submitted prayer to pass award directing the management to regularise the concerned workman as Asstt. Store Keeper in Clerical Grade-II from 1-2-1999.

3. Management on the contrary after filing Written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman.

They submitted that the concerned workman was appointed as general mazdoor Cat.-I on 28-10-87 and regularised in Cat.-II in the year 1988 and since then he is continuing in the same capacity. They disclosed that the concerned workman in the same capacity was deployed in the General Store from 3-2-98 and for which his claim of discharging his duties there as clerk finds no basis at all. his further claim of discharging duties as Asstt. Store Keeper also has no merit at all. Accordingly they submitted prayer to pass award rejecting the claim of the concerned workman.

## 4. POINTS TO BE DECIDED

"KYA MESSRS BHARAT COKING COAL LIMITED KEY PRAVANDHAN DWARA KARMAKAR SHRI KRISHNA PRASAD KARYARAT SAHAYAK VANDARPAL, MOONIDIH REGIONAL STORE KI SEVAYA KO NIYAMIT NA KARNA NAYA SANGATEVAM VIDHISANGATHAI? YADINAH TO KARMAKAR KIS LABH KO PANEY KA HAKDAR HAI TATHA KIS TARIKH SE?"

## 5. FINDING WITH REASONS

It transpires from the record that the sponsoring Union with a view to substantiate claim of the concerned workman examined his as MW-1 while management also in order to substantiate their own claim examined one witness as MW-1. Now let me consider how far the claim of the concerned workman for his regularisation as Asstt. Store Keeper stands on cogent footing or not.

Considering the facts disclosed in the pleadings of both sides and also considering evidence of MW-1 and WW-1. I find no dispute to hold that the concerned workman got his appointment as Cat.-I mazdoor on 28-10-86 under Moonidih Project and thereafter in the year 1988 he was regularised as general mazdoor in cat. II. WW-1 during his evidence that when he joined in service under the management he was graduate and thereafter he passed M.A. and got 1st Class. In the year 1988 he obtained post graduate diploma in social work from Barkatullah Viswavidyalaya, Bhopal. The certificates in relation to his qualification during his evidence had been marked as Ext. W-1, W-2. He submitted that in the year 1996 he submitted an application to the management to provide him a suitable job in conformity with his academic qualification which

duly forwarded to the Headquarter by the G.M. Moonidih Project. The copy of the application during his evidence was marked as Ext. W-3.

It is the contention of the concerned workman that in response to his application management issued an order in the year 1998 by which he was transferred to Regional Stores. The said order during his evidence was marked as Ext. W-5. He further disclosed that on the basis of the said order local management transferred him to Regional Stores and the release letter to that effect was marked as Ext. W-6. He submitted further that after joining at Regional Stores, Material Manager, Moonidih Regional Stores allotted him the job *vide* office order dt. 6/7-4-98 (Ext. W-7). The other relevant office order relating to his allotment of works by the Material Manager during his evidence had been marked as Ex. W-8 to W-13. He disclosed that in the said Regional Stores he still is performing the job of clerk Grade.-II. He disclosed that thereafter he submitted two representations to the manager for his regularisation as Asstt. Store Keeper (Exts. W-14 and W-15) and Material Manager forwarded his application with recommendation for his regularisation as Asstt. Store Keeper. Dy. Chief Material Manager also recommended his application and made an endorsement to that effect (Exts. W-14 and W-15/1) respectively. He submitted that since five years continuously he is discharging his duties as clerk Grade.-II at Regional Stores but in spite of discharging such higher responsibilities management paying him wages of Cat.-II. He further submitted that though he filed consecutive representations to the management they did not yet pass any order.

On the contrary MW-1 in course of his evidence though admitted the fact of transfer of the concerned workman at Regional Stores in the year 1998 submitted that he was transferred there as Ct.-II mazdoor and accordingly denied the fact about discharging his duties as Asstt. Stores Keeper. Accordingly he submitted that claim of the concerned workman finds no baiss at all and for which he does not deserve any relief in view of his prayer.

There is no dispute to hold that the concerned workman though was a highly qualified person initially got his appointment as Cat. I mazdoor and thereafter he was regularised as General Mazdoor Cat.-II. Representation of the concerned workman dt. 24-9-96 (Ext. W-3) shows clearly that he submitted representation to the management with a prayer for providing him a job according to his qualification. His application was duly forwarded to by the Dy. Chief Personnel Manager, Western Jharia Area, Moonidih. It is seen that in response to that representation Personnel Manager (IR) informed Dy. Chief Personnel Manager West Jharia Area to the effect that "The matter was placed before the competent authority. It has been decided that he may apply for the job against our internal circular issued from time to time. His case will be considered along with others against requirement. He may be informed suitably from

your end." This letter (Ext. W-4) is absolutely silent if the concerned workman would be transferred at Regional Stores. In spite of this fact it is seen from the office order (Ext. W-5) that Deputy Chief Personnel Manager, Western Jharia Area transferred the concerned workman at Regional Store W.J.A. as General Mazdoor Cat. II along with other terms and conditions of his service with immediate effect. However, it was mentioned in the said order that the said transfer order was issued with the approval of the competent authority. Accordingly, considering these two orders as discussed above it is clear that neither the Headquarter nor Dy. Chief Personnel Manager W.J.A. agreed to change the present designation of the concerned workman. He was just transferred to Regional Stores as Cat. II general mazdoor. From office order dt. 2-4-98 issued by Project Officer/Agent (Ext. W-6) it reveals that as Cat. II general mazdoor he was released to join his duty at Regional Stores, Western Jharia Area Moonidih with effect from 4-4-98. Consequent to the said order of Transfer, Materials Manager (S) issued an office order dt. 6/7-4-98 (Ext. W-7) directing the concerned workman to look after certain jobs which are clerical in nature. By another office order dt. 8-4-98 (Ext. W-9) the same officer, *i.e.* Material Manager (S) directed the concerned workman to assist the Shed incharge in the matter of identification of items which were lying in the custody of Shed incharge for more than 10 years. Considering all the orders discussed above it is very much clear that neither the concerned workman was designated as clerk nor as Assistant Store Keeper. On the contrary it transpires clearly that he was provided with certain clerical jobs to perform and also to assist the Shed incharge in the matter of identification of materials lying in custody of the Shed incharge for more than ten years.

From the office order dt. 17/19-7-99 (Ext. W-12) issued by Depot Officer W.J. Area and 11-3-2000 (Ext. W-13) it transpires that the concerned workman was entrusted with dealing of certain office files in the stores. Therefore, considering all the papers marked as Ext. W-7, W-9, Ext. W-10 to W-13, it transpires that though the concerned workman joined at Regional Stores as General Mazdoor Cat. II he was asked to deal with certain clerical jobs considering his qualification and not as a part of the promotion either as Store clerk or as Asstt. Store Keeper. It is seen that on 1-7-99 and 19-5-2000 concerned workman submitted two representations to the management with a prayer for his regularisation as Asstt. Store Keeper. Ext. W-14 and W-15. It is seen that the officer of the Regional Stores as well as Area Personnel Manager recommended the prayer of the concerned workman for his regularisation as Asstt. Store Keeper.

Considering the facts and circumstances discussed above it is clear that since 6-4-98 the concerned workman is dealing with office files of the Regional Stores satisfactorily as per order of the officers of the stores though he joined there as General Mazdoor Cat. II. It is seen that

the Headquarter in spite of getting knowledge of the representation submitted by the concerned workman duly recommended by the Area Personnel Manager did not issue any order restraining the concerned workman from performing his clerical jobs in the stores. On the contrary he was allowed to carry on the said jobs by their tacit consent. Excepting taking up jobs clerical in nature considering all materials on record I have failed to find out material ingredient relying on which there is scope to say that the concerned workman is discharging his duties as Asstt. Store Keeper independently N.C.W.A. has clearly pointed out the grade of Asstt. Store Keeper and how a workman is eligible to get his promotion in the said post. As per N.C.W.A. a workman is eligible to get his promotion as Asstt. Store Keeper only if his name is recommended by D.P.C. Moreover, there is no scope at all for a general mazdoor Cat. II to get his direct entry in the post of Asstt. Store Keeper which is absolutely a different cadre. Therefore, if the claim of the concerned workman for his regularisation in the post of Asstt. Store Keeper is taken into consideration in that case obviously the provisions as laid down in N.C.W.A. should be ignored abruptly which I think will go against the principle of natural justice as in that case the other workmen who are excepting to get their promotions as per recommendation of D.P.C. will be deprived absolutely. The post of Store Clerk Gr. III is filled up though selection/test. The concerned workman not only is a highly qualified person but exposed his efficiency in dealing with clerical jobs in the store for more than three years continuously by order of the management. It is seen that though management vested higher responsibility to perform clerical jobs knowing fully well that he was general mazdoor Cat. II no difference of wages was paid to him and for which for years together he sustained financial loss and that loss he incurred with the full knowledge of the management.

Accordingly, after careful consideration of all the facts and circumstances discussed I hold that for the interest of natural justice the service of the concerned workman is required to be regularised in Store Clerk Gr. III instead of Asstt. Store Keeper.

In the result, the following Award is rendered :—

“The action of the management of M/s. BCCL in not regularising Shri Krishan Prasad, as Asstt. Store Keeper, Moonidih Regional Stores is legal and justified. However, the concerned workman is entitled to be regularised in Clerical Grade-III w.e.f. the date of reference with full back wages and other consequential relief.”

Management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India, in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

कल.आ. 2060.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.एम.पी. डी.आई.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 101/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-7-2004 को प्राप्त हुआ था।

[सं० एल-20012/208/90-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 101/91) of the Central Government Industrial Tribunal/Labour Court, II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CMPDIL and their workman, which was received by the Central Government on 29-7-2004.

[No. L-20012/208/90-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) AT DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of the Industrial Dispute Act, 1947.

#### REFERENCE NO. 101 OF 1991

**PARTIES:** Employers in relation to the management of Central Mine Planning & Design Institute Ltd., Ranchi.

**AND**

Their workmen

**PRESENT:**

Shri B. Biswas, Presiding Officer

**APPEARANCES:**

For the Employers : Shri. S. C. Mallick, Advocate.

For the Workman : None.

State : Jharkhand : Industry : Coal

Dated, the 8th July, 2004

#### AWARD

By Order No. L-20012/208/90-I.R.(Coal-I), dated, the 12-2-1991 the Central Government in the Ministry of Labour has in exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section (2A) of the Industrial Disputes Act, 1947, referred the following industrial dispute for adjudication to this Tribunal :



"Whether the demand of the Union for reinstatement and departmentalisation/regularisation of the services of (1) S/Shri Sanjib Aikat, (2) Shyamal Kumar Mazumdar, (3) Jang Bahadur Singh, (4) Gorkha Bauri, (5) Sakhti Pada Singha, (6) Debashis Borat, (7) Biju Lohar, (8) Kartik Oraon, (9) Kumari Shanti, (10) Bajrang Lohar, (11) Shatrughan Mahto, (12) Bhajan Singh, (13) Indu Modak, (14) Mahendra Rau, (15) Rakho Hari, (16) Ashok Singh and (17) B.K. Dutta employed at the CMPDI Canteen through a contractor is justified? If so, what relief the workmen are entitled and from which date?"

2. The case of the concerned workman according to written statement, submitted by the sponsoring union on their behalf in brief is as follows :—

The sponsoring union submitted that on the demand of the workman of CMPDIL a Canteen was established by the management w.e.f. 1-6-1979 exclusively for the benefit and welfare of CMPDI personnel. The accommodation for the Canteen, Kitchen, Stores, with all fittings and fixtures, furnitures, electrical gadgets, crockeries, cutlery, cooking utensils, eating utensils as also uniforms to workmen employed for Canteen are provided free of cost by the management. The management was in obligation for the enforcement and observance of the provisions of Labour Laws in respect of the said Canteen. It was the management who was responsible for proper functioning of the Canteen and they have overall supervision and full control over its day to day function, proper maintenance, neatness and all matters related to the payment of workmen are to be made in presence of the responsible representative of the management. They submitted that as per provision laid down in NCWA-III & IV the management agreed that during the Agreement period there would be a Canteen in each collieries/establishments and the same would not be run by the contractor. All articles for running the Canteen would be supplied by the colliery management. However, the management will give certain amount to the Canteen Management Committee depending upon the size and operation of the Canteen to enable the Canteen to supply food articles at cheaper price. It was further specifically stipulated in NCWA-III that industry shall not employ labour through contractor or engage contractor's labour in respect of the jobs which are permanent and perennial in nature. They submitted that the said Canteen attached to the CMPDIL Headquarters establishment is a permanent and perennial establishment, established to provide goods and services exclusively for the CMPDIL personnel including Executives, where free sale or catering to other outsider is strictly prohibited. They submitted that all the workmen attached to the said Canteen who were appointed only with the approval and sanction of the management and were removed on the displeasure of the management. The employment of the contractor is only a paper arrangement and that too in violation of NCWA-III & IV with a view to

deprive the workmen concerned to get their entitled wages and other benefits, facilities like that of the regular employees. They submitted that under Coal Wage Board Categorisations as revised by the National Coal Wage Agreement, the Canteen Manager is entitled to be placed in Clerical Grade-I, while Asstt. Manager in Clerical Grade-II and Supervisor in Clerical Grade-III. The grade prescribed for Cook is Technical and Supervisory Grade-'F' and that for Bearer is Grade-'H', Helpers including Helper to Cook in Category-II and Sweepers in Category-I. They alleged that during pendency of the dispute conciliation and while the Manager was on sick and under treatment, on 1-10-89 the concerned workmen were forcibly evicted and the canteen was locked out by the management. Since then the contract was changed twice. They submitted that even if it is considered that the concerned workmen were employed by the contractor to work in the said canteen they are legally entitled to same wages, wage scale, hours of work, holidays, other benefits and facilities and service conditions as applicable to the employees of regular roll of CMPDIL employed on same and similar job particularly in their Guest Houses. The paper arrangement of contract was designed to perpetuate unfair labour practice and deprival and naked exploitation. The management also failed to discharge its legal obligations under the Contract Labour (Regulation & Abolition) Act, 1970 and Contract Labour (Regulation & Abolition) Central Rules, 1971. They submitted that the workmen concerned are actually the workmen of the management employed to produce goods and services entirely and exclusively for the benefit of the employer. The overall control and supervision rested on the management of CMPDIL. But the management by way of camouflage ignored to recognise the concerned workmen as their employees. They submitted that the concerned workmen are the employees of the management, but the management illegally, arbitrarily and violating the principle of natural justice ignored them to reinstate and regularise in service and for which an industrial dispute was raised for conciliation which ultimately resulted reference to this Tribunal.

Accordingly, the sponsoring union submitted prayer to pass award directing the management to regularise the concerned workmen with full back wages and other consequential relief.

3. The management after filing written statement-cum-Rejoinder have denied all the claims and allegations which the sponsoring union asserted in their written statement.

They submitted that in a meeting held on 21-2-90 with the representatives of National Coal Workers Congress Union the issue with regard to managing the canteen contractually was discussed in length and the sponsoring union was informed to their satisfaction that the Canteen

was functioning properly through contractor instead of its running by departmentally as it was observed that the Canteen run departmentally did not yield good result. Accordingly not only National Coal Workers Congress Union but also other parties representing the workmen and operating in the employers establishment are fully in agreement to run the canteen through the Contractor in view of the fact that they are represented in the canteen Managing Committee. They disclosed that the canteen does not come within the prohibited category of item under the provisions of Contract Labour (Regulation & Abolition) Act, 1970 and as such no direction can be given in a purported industrial dispute for abolition of such contract labour. They disclosed that the canteen at CMPDIL was being managed contractually in the best interest of the workmen and in view of that reason operation of canteen through contractor remained continued and that too in agreement/understanding of the functioning union of the CMPDIL for the fact that they are represented in the canteen Managing Committee. They further submitted that to run the Canteen through contractor, Sanjib Kumar Aikat was awarded the contract to run the canteen contractually and in view of the said reason the persons engaged by the contractor to run the said canteen cannot be considered to be the employees of the management. They categorically denied the fact to engage any workman of the canteen by the management. Actually it was the contractor who engaged the workmen to work in the canteen and for which no employer-employee relationship ever grew up in between them and the said workmen. Accordingly, the claim made by the sponsoring union for their regularisation finds no basis and accordingly submitted prayer to pass award rejecting the claim of the concerned workmen.

#### Points to be decided

4. "Whether the demand of the Union for reinstatement and departmentalisation/regularisation of the services of (1) S/Shri Sanjib Aikat, (2) Shyamal Kumar Mazumdar, (3) Jang Bahadur Singh, (4) Gorkha Bauri, (5) Sakhti Pada Singha, (6) Debashis Borat, (7) Biju Lohar, (8) Kartik Oraon, (9) Kumari Shanti, (10) Bajrang Lohar, (11) Shatrughan Mahto, (12) Bhajan Singh, (13) Indu Modak, (14) Mahendra Rau, (15) Rakho Hari, (16) Ashok Singh and (17) B.K. Dutta employed at the CMPDI Canteen through a contractor is justified? If so, what relief the workmen are entitled and from which date?"

#### Finding with reasons

5. It transpires from the record that the sponsoring union with a view to substantiate their claim examined one of the concerned workmen in the instant case as WW-1 while the management also with a view to substantiate their claim examined one witness as MW-1.

Considering the evidence of both sides and also considering the pleadings of both parties there is no dispute about existence of the canteen under the management since

1978. This witness (WW-1) during his evidence disclosed that the said canteen is meant for the service of CMPDIL employees and to run the said canteen the management grants subsidy to the extent of 50% of the expenses. Even the management used to supervise the functions of the canteen. This witness further admitted that the management of the said canteen is controlled by the Canteen Managing Committee. It is their specific allegation that when the said canteen is run absolutely under the control of the management they deprived them not only to regularise in the services but also ignored to pay minimum wages at par with the employees of the management for their subsistence. This witness disclosed during his cross-examination that actually he was an employee of the contractor, Sanjib Aikat to whom the management engaged the said canteen on contractual basis. He admitted further that they used to receive salary from the said contractor in presence of the Canteen Committee members. He further disclosed that the Canteen Committee members used to supervise the work of the canteen. He further disclosed that it was the contractor, Sanjib Aikat who terminated them from service.

MW-1 is Dy. Estate Manager of CMPDIL. During his evidence he disclosed that during the period 1982-83 to 1995 the said canteen used to be operated by different contractor from time to time on the basis of written agreement. Duration of each contract was in between 2 to 3 years. He further disclosed that to run the canteen it was responsibility of the contractor to employ his own men. Actually they had no role at all to control and supervise the men of the contractor employed in the canteen. It was the contractor who paid wages to his employees. This witness further disclosed that all the concerned workmen were actually engaged by the contractor, Sanjib Kumar Aikat was awarded contractual job in the canteen as per agreement. The copies of two agreements for the years 1987 and 1989 by which contractual job was given to the contractor for running the canteen, during his evidence were marked Exts. M-1 and M-2. Accordingly, he denied the fact that the concerned workmen were their employees.

5. Now, considering the facts disclosed in the pleading and also considering the evidence of both sides I find no dispute to hold that there was a canteen in the premises of the management and the said canteen was opened for the benefits of the employees of that Organisation. It is also clear that the administration of the said canteen used to be looked into by the Canteen Managing Committee Members who belonged to different unions. The management also had a role in the said Committee in the matter of supervision of day to day work of the canteen jointly with those members of the Canteen Managing Committee. It is also clear that the management used to pay subsidy with a view to supply food articles to the employees at a cheaper rate. Considering the evidence of both sides it is clear that during the said period in



question day to day work of the said canteen used to be operated through contractor. It is the contention of the management that during the years 1987 and 1989 the management engaged Sanjib Kumar Aikat as contractor to run the said canteen. The copies of the agreements (Ext. M-1 and M-2) have clearly supported the claim of the management. Therefore, it is clear that said Sanjib Kumar Aikat was entrusted to run the canteen from 1987 to 1990. WW-1 during his evidence disclosed that it was Sanjib Kumar Aikat who engaged them to work in the said canteen. He further admitted that they used to draw their wages from their employer i.e. Sanjib Kumar Aikat in presence of Canteen Managing Committee Members. Considering the evidence on record and also considering the agreements it is clear that Sanjib Kumar Aikat on contractual basis was engaged by the management to run the canteen but it is really curious to note that though Sanjib Kumar Aikat was engaged as contractor to run the canteen his name listed first in the reference for claiming his employment under the management. It is really curious to note that the sponsoring union did not consider necessary to examine Sanjib Kumar Aikat with a view to establish their claim. No incriminating material is forthcoming challenging the agreement entered into between the management and Sanjib Kumar Aikat for running the said canteen (Exts. M-1 and M-2). It is the contention of the sponsoring union that appointment of said contractor was camouflage one and the management did so intentionally with a view to deprive the concerned workmen from claiming their regularisation in service, wages equal to permanent employees of the management and other facilities. I have failed to understand how the sponsoring union listed the name of Sanjib Kumar Aikat in Sl. No. 1 as per reference when according to them the said person was utilised by the management to stand as a contractor on camouflage. It has been further alleged keeping that concerned workman in front foot the management used to run the said canteen exclusively. If this fact is taken into consideration in that case it would be befitting for this sponsoring union to examine that person with a view to reveal the truth. It is clear that to run a canteen through contractor cannot be considered as a job of prohibited category within the meaning of Contract Labour (Regulation & Abolition) Act, 1970. Therefore, there was no need on the part of the management at all to engage any contractor on camouflage. It is admitted fact that the said canteen used to be run by the Canteen Managing Committee consisting of members of the union and the management. It is really curious to note that inspite of existence of Canteen Managing Committee none came forward to say that the said contractor, Sanjib Kumar Aikat was a camouflage contractor and actually in the name of the said person the management used to run the canteen.

6. As the allegation of camouflage has been brought against the management by the sponsoring union onus entirely shifts on them to establish that claim. It is seen that inspite of getting ample scope none appeared on behalf

of the sponsoring union to cross-examine MW-1 with a view to challenge the claim which he exposed in course of his evidence. Moreover, cross-examination of WW-1 is required to be looked into with all importance. WW-1 during his evidence categorically disclosed that all the concerned workmen were appointed by Sanjib Kumar Aikat who was engaged as contractor by the management. He further admitted that said Sanjib Aikat used to pay them wages for their work. He further disclosed that the Canteen Committee was incharge of supervising the canteen work. I have already discussed above that the said Canteen Committee was formed taking the members of different unions and the management. Is it believeable to swallow that in presence of the union members who were in the Canteen Committee, the management used to run the canteen business erecting a camouflage person named Sanjib Aikat?

I have carefully considered all other materials on record and I have failed to find out any material ingredient relying on which there is scope to say that the contractor engaged by the management was a camouflage one. I hold that engagement of contractor was validly done as per agreement for running the canteen for interest and benefit of the employees of the management and for which it does not come within the prohibited category of job as per Contract Labour (Regulation & Abolition) Act, 1970. As the concerned workmen were employed by the contractor relationship of master and servant grew up in between the said contractor and the employees i.e. concerned workmen and did not in between the management and the concerned workmen. Therefore, no relationship of master and servant grew up in between the management and the concerned workmen. Accordingly, the claim of regularisation in the service of the management finds no basis at all and for which they are not entitled to get any relief in view of their prayer.

7. In the result, the following award is rendered :—

The demand of the Union for re-instatement and departmentalisation/regularisation of the services of (1) S/Shri Sanjib Aikat, (2) Shyamal Kumar Mazumdar, (3) Jang Bahadur Singh, (4) Gorkha Bauri, (5) Sakhti Pada Singha, (6) Debashis Borat, (7) Biju Lohar, (8) Kartik Oraon, (9) Kumari Shanti, (10) Bajrang Lohar, (11) Shatrughan Mahto, (12) Bhajan Singh, (13) Indu Modak, (14) Mahendra Rau, (15) Rakho Hari, (16) Ashok Singh and (17) B. K. Dutta employed at the CMPDIL Canteen through a contractor is not justified. Hence, the concerned workmen are not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का. आ. 2061.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/भ्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 7/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-7-04 को प्राप्त हुआ था।

[सं. एल-12012/115/2000-आईआर(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 30th July, 2004

**S.O. 2061.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 23-7-04.

[No. L-12012/115/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

**PRESENT:** Shrikant Shukla, Presiding Officer

I.D. No. 7/2001

**Ref. No. L-12012/115/2000/IR (B-II) dated 10-1-2001**

#### BETWEEN :

Digvijay Singh, S/o Sh. Chote Singh  
R/o 33/1, New Basti, Jhansi.

#### AND

The Zonal Manager, Punjab National Bank,  
Zonal Office, Sanjay Palace, Agra (U.P.)

#### AWARD

The Government of India, Ministry of Labour vide their order No. L-12012/115/2000/IR (B-II) dated 10-1-2001 referred the following issue to the Presiding Officer Central Government Industrial Tribunal-cum-Labour Court, Lucknow for adjudication.

“Whether the action of Regional Manager, Jhansi and Zonal Manager, Punjab National Bank, Agra in terminating the services of Shri Digvijay Singh vide their order dated 12-7-1996 is legal and justified? If not, what relief the concerned workman is entitled to?”

Shri Digvijay Singh has alleged in the statement of claim that his services were illegally terminated vide order dated 12-7-96 of Regional Manager, Jhansi. He has alleged

that after his retirement from Indian Army in 1981, he was appointed as Guard Currency Chest in Punjab National Bank, City Branch, Jhansi on 31-12-1984. However, the letter of appointment bears the date on 20-12-1984. It is also alleged that he continued working in the said bank till he was terminated on 12-7-96, he has therefore requested that his dismissal order dated 12-7-96 be set aside and he should be reinstated with all benefits and arrears of salary. The statement of claim accompanied by the affidavit of the worker has been filed. In the said affidavit the worker has alleged that he was transferred to Punjab National Bank, Talbehat, Lalitpur in the year 1992 on the post of Guard. During his service at Talbehat the treatment of his daughter was not possible therefore the worker requested for his transfer for 3 months to branch office city, Jhansi and accordingly transfer order was issued on 21-4-94. The worker in compliance of the said order joined in the City Punjab National Bank on 26-4-94 on the post of Guard. Even after completion of 3 months the worker was not released and he was engaged on worker till 6-10-1994. While the worker was on duty on 4-10-1999 at the city branch office of Punjab National Bank at 5 PM he was abused, beaten up by Sri Sudhir Saxena, Ram Manohar and V.K. Srivastava. The worker got the FIR registered at Police Station. The police investigated the case and filed the charge sheet in the court of CJM II, Jhansi. the case was registered as case No. 1497/94 Digvijay Singh v. Sudhir Saxena and other u/s 323, 427, 504, 506 IPC. The worker has also alleged that he went on medical leave and the bank authority did not take any action against the accused employee named above. The employees Shri Sudhir Saxena, Sri Ram Manohar and V.K. Srivastava made a false story against the worker in his absence and got conducted disciplinary enquiry against the worker. However, the worker joined the duties at Talbehat on 26-11-94. On receiving the letter dt. 12-10-94 of Regional Manager, Jhansi wherein he was directed to show cause within 3 days as to why disciplinary proceedings be not initiate against him. The worker replied to the said show cause notice along with FIR copy of enquiry report etc. The management of the Bank started enquiry against the worker on false and cooked facts since the worker lodged FIR with a view that worker may withdraw his criminal case against the employees who worked in the city branch of Punjab National Bank. The worker has alleged that during the enquiry proceedings he requested the appointment of Advocate to provide him legal assistance in the enquiry during the proceedings but the Bank authority on 26-6-95 denied the assistance. Aggrieved from the order of the denial the worker filed Writ Petition No. 31579/96. Hon'ble High Court disposed of the said Writ Petition on 8-10-96. The worker has alleged that enquiry proceedings were initiated with malafide motive and accordingly he was dismissed on 12-7-96. Worker therefore preferred an appeal, which was rejected, vide order dated 23-12-96. Aggrieved from the orders dated 12-7-96 and 23-12-96 the worker filed

Writ Petition 6546/97 which was dismissed on 24-2-97. The worker filed special No. 628/98 in the Court of Allahabad High Court, Allahabad which was allowed on 12-1-2000 and in compliance of the said order the worker filed the industrial dispute before Asstt. Labour Commissioner (C), Kanpur. It is also alleged that Enquiry Officer Sri R.N. Mehrotra was unhappy with the workman.

The Zonal Manager, Central U.P. zone, Agra has filed the written statement on behalf of the employer. It is alleged in the written statement that the worker Digvijay Singh while working as Peon/Guard at branch office Nagra (on temporary posting at his request), permanent posting at Talbehat had indulged in riotous behaviour on 4-10-94 in respect of which he was served with the charge sheet dated 19-10-94 by the Disciplinary Authority ordered departmental enquiry to look into the truthfulness of the allegations made against him. The disciplinary Authority appointed enquiry officer and presenting officer in accordance with the rules. It is further submitted that the enquiry officer had conducted departmental enquiry in accordance with the provisions of the Bipartite settlement and principles of natural justice during which all reasonable opportunity was afforded to the worker to defend himself and to present his case. The enquiry officer submitted his report to the Disciplinary Authority holding the allegations made against Sri Singh as proved, based upon the material on record. The Disciplinary Authority considered the report and proposed punishment of removal from service on 25-4-96 and also fixed 23-5-96 for personal hearing. He attended the personal hearing on 23-5-96 and informed that there is no defence representative from his side. Therefore, the Disciplinary Authority having regard to the entire material on record and the submissions raised by Shri Singh during the course of personal hearing confirmed the punishment of removal from service vide order dated 12-7-96. Aggrieved with the order dated 12-7-96 of the Disciplinary Authority Shri Singh preferred an appeal before the Appellate Authority along with Shri H.N. Chakravarty, Advocate as per order dated 8-10-96 of Hon'ble High Court in Civil Misc. Writ Petition No. 31579/96. The Appellate Authority after considering the entire material on record and affording him an opportunity of personal hearing on 26-11-96 rejected the appeal preferred by Shri Singh vide orders dated 23-12-96.

It is admitted that the worker was transferred to Talbehat Branch where he joined on 14-9-92. The worker was placed under suspension on 8-8-91 and a charge sheet dated 19-10-91 was served upon him for his riotous and disorderly behaviour and a departmental enquiry was set up and during the enquiry his suspension was revoked and he was posted at Talbehat. The management has also alleged that the transfer of the worker to talbehat was not routine transfer but was reinstatement in service after revocation of this suspension.

It is also submitted that in respect of the charge sheet

dated 19-10-91 served upon him, he was inflicted punishment of 'stoppage of two increments' with cumulative effect by the disciplinary Authority vide order dated 15-4-94. The management has denied that the worker retired from the Army as Sena Nayak rather he retired as Hon Naik as per his discharge certificate. It is further submitted that at branch talbehat, Jhansi City he never discharged his duties diligently. At Talbehat he again indulged in the same nature of misconduct and was removed from service. Regarding the allegation of the worker about his transfer it is alleged by the bank considered his temporary transfer request on humanitarian grounds and he was posted temporarily at Jhansi Nagra to enable him to carry treatment of his daughter and accordingly till 6-10-94 at his verbal request to his family problems. When the bank relieved the worker for Talbehat, the workman filed a Civil Suit No. 530/94 in Munisif Court, Jhansi seeking stay to the relieving but the court dismissed his case on 11-11-94. The workman made an appeal No. 186/94 to the District Judge, Jhansi which was also dismissed on 25-11-94, so far as allegations about criminal case is concerned the management has alleged that the said case is personal case and not connected with the Bank, as the Bank is not party to it. It is further alleged that this criminal case is pending, as such action can be considered against the accused named with the criminal case. Regarding the allegation of worker about the engagement of advocate is concerned in the enquiry proceeding the management has stated that the Disciplinary Authority denied for his defence as Enquiry Officer was not a trained officer. The management has stated that order dated 12-7-96 is not malafide. The allegations against the enquiry officer have not been admitted by the management. The management has therefore requested that Tribunal may hold that action of the management inflicting punishment of removal from service upon worker vide order dated 12-7-96 is legal and justified and that worker is not entitled to any relief as prayed or otherwise. It is further prayed that in case this Tribunal decides the preliminary issue relating to fairness or justness of the departmental enquiry against the management of the Bank, in that eventuality, they would crave leave to lead evidence to establish allegations made vide charge sheet dated 19-10-94.

The then Presiding Officer on 15-6-2001 framed the following issues :-

- “1. क्या श्रमिक दिग्विजय सिंह के विरुद्ध अनुशासनिक जांच उचित एवं न्याय संगत है ?
2. श्री दिग्विजय सिंह के विरुद्ध पदच्युत का आदेश दिनांक 12-7-96 द्वेष प्रेरित है अथवा नहीं ? तथा इस प्रसंग को जांच अधिकारी के निष्कर्ष दुराग्रहपूर्ण (परवर्स) है अथवा नहीं ?”

The then Presiding Officer on 6-11-2001 held that the enquiry is not fair & Justified at the same time gave an opportunity to the management to produce the witnesses under section 11(A) of the Industrial Disputes Act, 1947.

The worker Digvijay singh has filed following enclosures.

Following documents have also been filed :

1. Photo copy of the identity card and photo, paper No. 3/13.
2. Photo copy of the letter of the manager, Punjab National Bank, Jhansi dt. 10-7-89 regarding travel authorisation to guards, paper No. 3/14.
3. Photo copy of printed note of worker, paper No. 3/15 to 3/17.
4. Photo copy of letter of the Regional Office of the PNB dated 26-11-95 addressed to the worker (unsigned).
5. Photo copy of letter of Sr. Manager (Security) Punjab National Bank Regional Office addressed to the Manager, talbehat dt. 25-11-95 about training.
6. Photo copy of gun licence, paper No. 3/19.
7. Photo copy of charged framed against the worker dated 23-11-96 by ACJM (Jhansi), paper No. 3/20 Annexure-6
8. Photo copy of injury report of the worker dated 6-10-99, paper No. 3/21.
9. Photo copy of statement of Jahid Ali & Jagdish Narain dated 20-12-94 (not signed cross examined), paper No. 3/22 Annexure-8, paper No. 7/9, 7/10.
10. Photo copy of printed matter Annexure-9, paper No. 3/23.
11. Photo copy of some newspapers, paper No. 3/24 Annexure-10, paper No. 7/5, 7/6.
12. Photo copy of the order of Hon'ble High Court dt. 8-10-96 passed in civil Writ petition No. 31579/96, Digvijay Singh v. Chairman & Managing Director, Punjab National Bank & others, paper No. 3/25.
13. Photocopy of the orders of Hon'ble High Court, Allahabad dt. 12-1-2000 passed in civil Writ petition No. 628/98, Digvijay Singh v. Chairman and Managing Directors, Punjab National Bank & others Annexure 12, paper No. 3/27, 3/27.
14. Photo copy of notice dated 5-3-95 addressed to the worker Annexure 13, paper No. 2/28.
15. Photo copy of notice Annexure 13 A, paper No., 3/29.
16. Photo copy of certified of G.B. Pant Hospital regarding expenditure up to 16-4-96 in the name of Seema Annexure-14, paper No. 3/30.
17. Photo copy of letter of worker addressed to Manager, talbehat, Punjab National Bank dated 4.5.96 paper No. 3/31.
18. Photo copy of letter of PMO office dated 12-9-97 regarding financial assistances of Rs. 20,000 paper No. 3/32.
19. Photo copy of cheque of Prime Minister National Relief Fund 26-9-97 along with receipt, paper No. 3/33.
20. Photo copy of discharge summary of Seema dated 12-11-97 along with G.B. Pant Hospital, paper No. 3/34.
21. Photo copy of application of worker dt. 7-7-85 paper No. 3/35.
22. Photo copy of application of worker dt. 20-7-95, paper No. 3/36.
23. Photo copy of application of worker dt. 4-2-2000, paper No. 3/37.
24. Photo copy of complaint of worker u/s 323, 504, 427 & 506 IPC P.S. Prem Nagar, Jhansi, paper No. 6/5, 6/6.
25. Certified copy of statement of witness u/s 2000 CrPC, u/s 246 CrPC recorded in the court of ACJM (II), Jhansi, paper No. 6/7 to 6/18.
26. Certified copy of statement of accused Sudhir Saxena, V.K. Srivastava & Ram Manohar recorded in criminal court paper No. 6/20 to 6/25.
27. Certified copy of Civil Suit No. 168/1995 Digvijay Singh v. Regional Manager & 140 others regarding injunction filed in Munsif's Court, Jhansi, paper No. 6/26 to 6/29.
28. Two news papers dated 7-10-84, paper No. 6/20, 6/31.
29. Affidavit, paper No. 7/1, 7/2 of the worker.
30. FIR (NCR) dt. 5-10-94 P.S. Prem Nagar, paper No. 7/3 & 7/4.
31. Photo copy of application of the worker addressed to solder board dt. 7-10-99, paper No. 7/7.
32. Photo copy of letter of solder board addressed to Regional Manager dt. 7-10-94, paper No. 7/8.
33. Affidavit of Jahid Ali, paper No. 7/12 & 7/13.
34. Photo copy of application dt. 3-4-98 of Jahid Ali, paper No. 7/14.
35. Affidavit of Ram Kumar Joshi, paper No. 7/15 & 7/16.

On the other hand the management has filed photocopies of the following documents :

1. Charge sheet dated 19-10-94.
2. Reply dated 1-11-94 of the workman.
3. Letter dated 15-1-94 of Disciplinary Authority.
4. Enquiry proceedings prepared by R.K. Malhotra.

5. List of documents dated 25-1-95 filed in the enquiry.
6. Order dt. 12-7-96 of Disciplinary Authority passing the punishment of dismissal.
7. Copy of orders dt. 8-10-96 of Hon'ble High Court in Civil Writ Petition No. 31579/96 Digvijay Singh v. Punjab National Bank.
8. Order dt. 23-12-96 of Appellate Authority rejecting the appeal.
9. Order dt. 12-5-95 of Munsif Jhansi in O.S. No. 169/95.
10. Charge sheet dt. 19-10-96 served to the workman.
11. Copy of orders of Disciplinary Authority dt. 15-4-94.
12. Order dt. 11-11-94 of Munsif, Jhansi in O.S. No. 530/94.
13. Order dt. 25-11-94 of District Judge, Jhansi in appeal No. 186/94.
14. Order dt. 24-2-97 of Hon'ble High Court in CM Writ Petition No. 6546/97.
15. Order dt. 12-1-2000 of Hon'ble High Court in special appeal No. 628/98.
16. Circular No. 49/95 dated 20-3-95.

Management has filed affidavits of its witnesses :

1. S.K. Saxena
2. Ram Manohar
3. V.K. Srivastava

Parties have filed written arguments. Heard the parties as well as perused the records.

Worker has also filed certain other photocopies of documents besides those mentioned above :

1. Photocopy of appointment letter of worker as Peon/Guard dated 20-12-84.
2. Letter regarding Shri Sachey Lal Peon for change from peon to Armed Guard dt. 3-9-96.
3. Letter of Regional Office to Branch Manager.
4. Application of the worker requesting that he should be directed to perform the duties of only guard addressed to Manager, Branch, Nagra dt. 22-8-94.
5. Legal notice on behalf of the worker regarding revocation of suspension order.
6. Certificate issued by Branch Manager dt. 22-6-96 mentioning his designation as peon.

First of all it is to be decided whether the worker was posted as armed guard or peon guard. On behalf of the worker, it has been tried to establish that, the worker was

armed guard & not peon guard. I have carefully gone through the evidence on record. Although the worker has denied in cross-examination the fact that he was appointed as peon/guard, but the appointment letter, the copy of which has been filed by the worker itself goes to prove that he was appointed as peon/guard. There is no document to show that he was ever converted from the peon/guard to armed guard. Worker has filed the photocopy of the certificate of Branch Manager of the Bank dated 22-6-86 paper No. 5/28 that goes to prove that the worker was peon cum guard only and not armed guard. By filing the photocopy of the letter of Regional Manager dt. 13-9-86, addressed to the Manager, Farrukhabad the worker has tried to say that his designation was changed. I do not agree with the argument. The letter in question is paper No. 7/12. It relates to Shri Sachey Lal of Farukhabad and not to the worker. By filing the said letter the worker has tried to mislead the court. Another document the worker has relied is the letter dt. 10-7-89 paper No. 5/51 & 3/14, as there is mention of guard. It is not the document to establish that the worker was converted to Armed Guard. This letter authorised the worker to travel with the gun. It is note worthy that the worker knew it well that he was peon/guard and therefore on 8-12-94 he moved the application for change of his designation from guard/peon to Armed Guard. The photocopy of his own application is on record i.e. paper No. 5/16. Worker has filed the communication letter i.e. paper No. 5/17 that he was required to undergo training/fire practice. There is nothing unnatural since he was a peon/guard.

On perusal of the worker's own documentary evidence it is proved that the worker was appointed as peon/guard and he continued so. Worker's statement that he was guard only in false.

Worker has filed a number of documents showing that his daughter Scema was suffering with the heart ailment and even Prime Minister's office contributed in her treatment. The documents so filed are of no assistance to the worker in the present case and answering the issue referred.

The worker has tried to say that he had unblemished record of service. Denying the allegations that management of the Bank has pleaded that at branch office & also at Branch office Jhansi city worker never discharged his duties diligently. At branch office Jhansi only the worker was placed under suspension and a charge sheet was placed under suspension and a charge sheet was served on him on 19-10-91. After departmental enquiry charges were found proved and punishment of 'stoppage of two annual graded increments with cumulative effect' was imposed vide order dt. 15-4-94 without any wages for suspension period. Worker himself has file the copy of legal notice of his advocate Shri M.P. Chakarvarty i.e. paper Nos. 5/26 & 5/27.

I have gone through the notice of 12-7-92 and found that in the said notice the suspension is challenged. Copy of chargesheet dt. 19-10-94 has been filed by the management of the Bank. Charges are as follows:

1. During the course of the worker's employment on 4-10-94 at about 4.45 P.M in the cabin of Branch Manager Shri Gopalan worker indulged in abusing the clerk/cashier Shri Sudhir Saxena and even worker indulged scuffles beating, Worker called Shri Saxena as 'Suwar' Sri S.D. Srivastava Officer and Ram Mahaur witnesses the fact, Shri R. K. Rai, Asstt. Manager & few customers separated the two.
2. Worker on 4-10-94 & prior refused to execute the work of peon. Management did warn the worker repeatedly
3. The worker on 5-10-94 was relieved, but in spite of relive, he marked his presence on attendance register on 6-10-94.
4. Worker refused to receive the letter dated 5-10-94 of Branch Manager, when the same was tendered to him.

Accordingly the worker was charged for gross misconduct. Worker was asked by the management to submit the details of defence within 7 days failing which appropriate action shall be initiated.

The worker replied vide his letter dt. 1-11-94 addressed to Asstt. Regional Manager of the Bank. Denying the charge, the worker has stated that Shri S.D. Srivastava and Ram Mahaur are the men of Shri Sudhir Saxena. The worker has alleged that on 4-10-94 at 5 P.M after duty hours Shri Sudhir Saxena, Clerk, Ram Mahaur & B. K. Srivastava abused him and voluntarily caused hurt for which he was medically examined and for safety the said persons have manipulated the story. Worker has also stated that he never denied to execute the duties of Peon. Regarding relieving the worker said that he got the information of relive in 10-10-94 and the worker signed attendance register in ignorance. He has therefore not committed any fault so far as the refusal to receive of letter is concerned. The worker has denied the charges.

As mentioned at the page No. 7 of the award the management filed the affidavits of their witnesses Shri S. K. Saxena, Ram Mahaur and S. D. Srivastava. They were cross-examined on 1-5-2000.

The facts, which emerged from the evidence of the management, are:

A. That Shri S.D. Srivastava was the Accountant of the branch office Nagar Sri S. K. Saxena was the clerk cashier of the same branch of the Bank and Sri Ram Mahaur was teller in the Bank.

B. That on 4-10-94 Shri S. K. Saxena returned to his branch office in the evening after doing his official work at

Seepari Branch of the Bank, to report the Branch Manager, while the Asstt. Branch Manager was complaining about the refusal of peon work by the worker Digvijay Singh and Asstt. Branch Manager also complained to the Branch Manager in his cabin that the refusal to work by the workman Digvijay Singh is causing hardship in the working. Shri Digvijay Singh was called in, he was being interrogated and in the meantime Shri S. K. Saxena also arrived. Shri Sudhir Saxena also complained about the conduct of Digvijay Singh and corroborated the fact. On intervention by S. K. Saxena the worker, Digvijay Singh was enraged and uttered 'Suwar Ka Bacha Chup Rah'. When Shri Saxena asked him not to abuse him, Shri Singh caught hold him by collar and slapped him. The witness Sri Ram Mahaur tried to separate Digvijay from Sri S. K. Saxena on which he was also pushed aside by Digvijay Singh and threatened 'Hat Jao Saale Ek Ek Ko Theek Kar Doonga'.

On behalf of Digvijay Singh it was not even suggested in cross examination that Ram Kumar class IV employee of the Bank and one Jahid Ali S/o Abdul Wahid was also present at the spot and they witnessed it.

Worker on the other hand has filed the affidavit of his own self, Zahid Ali and Ram Kumar Joshi. According to the affidavit of Sri Digvijay Singh on 4-10-94 at about 5 PM he was called in the cabin of the Manager, where Sri S. K. Saxena, Sri Ram Mahaur & V. K. Srivastava, Branch Manager were already there and were abusing Digvijay Singh. It is also stated in the affidavit that Sri S. K. Saxena, V. K. Srivastava and Sri Ram Mahaur beaten him up and the goggles costing about Rs. 300/- which he was wearing fell and got broken. The incident was witnessed by Jahid Ali, Ram Kumar and Jagdish Narain and many others. The accused went away threatening him. In cross examination he has stated that he suffered fracture.

It is relevant to mention here that Sri Digvijay Singh got the non-cognisable report registered on 5-10-94 at 18.05 hours at Police Station Prem Nagar, which was registered U/s 323/504/427 IPC. The only witness whose name is mentioned in the NCR stated that Sri S. K. Saxena, Sri Ram Mahaur and V. K. Srivastava complained about Digvijay Singh was asked to execute the job of orderly but he was refusing.

Sri Singh asked that they should make no complaint as he is a guard and not an orderly. On pursuing the statement U/s 200 and 202 of CrPC as recorded in the criminal court, it was stated that S. K. Saxena and others asked him to work as orderly, which he refused.

This clearly establishes that the incident took place as a result of refusal of performing the duties of peon by Digvijay Singh. It also established that Digvijay Singh forbade the staff and officer of the bank not to make complaint.

Digvijay Singh was not sent by the police for medical examination instead he on 6-10-94 got himself medically



examined at 4.20 PM. He had two simple injuries. Thus not only there is delay in lodging FIR, but also delay in medical examination. On the one hand he says that he never refused to perform the duties of peon and on the other hand, he admits in NCR.

I have come to the conclusion that the worker was peon/guard. He is expected to perform both duties. He has no right to refuse the duties of peon. The occurrence took place only because there were complaints for not performing the duties of peon by Digvijay Singh and Digvijay Singh asked the Bank officials not to complain and if even then some one complaints, it is the Digvijay Singh who shall react, nor the staff. The staff of the Bank were within their rights to make complaints as it hampered the business of the Bank. It has also come in the evidence that Sri S. K. Saxena made the complaint the same day about the occurrence, which took place on 4-10-94. It was for the worker therefore to run for the defence. It appears, when the worker came to know that a complaint has been made in writing the same day, the worker submitted the defence story and accordingly delayed NCR was got registered. Not only this he got him medically examined after 2 days.

On behalf of the worker, it has been tried to suggest that the clerk/cashier Sri S. K. Saxena has not got the FIR registered therefore his statement and the statement of other witness of the management be disbelieved.

I do not agree with the submission of the workman. In case adequate departmental proceedings are initiated as the occurrence took place in the Bank there was no need to go to lodge FIR.

The Bank circular dated 20-9-95 is of no help to the worker as he is not purely appointed as armed guard. He must bear in mind that he is peon/guard. Worker cannot refuse to perform the duties of peon as well as guard.

Worker's witness Jahid Ali is not a natural witness. He is a chance witness according to his own story he went on 4-10-94 at 5 PM for getting the entry in a passbook. He has taken names of Sri. S. K. Saxena, Sri Ram Manohar and V. K. Srivastava and Ram Kumar Joshi. When he is asked to name the person to whom he issue the passbook, he could not tell the name. He stated that it is in his knowledge that public work is transacted between 10.30 to 2.30 PM as such his presence in the Bank is not trustworthy. He also admits that he has not deposited any money on 4-10-94. In the circumstances the statement of Jahid Ali is not trustworthy.

Another witness is Ram Kumar Joshi whose name is not in NCR of the worker. He has been removed from the service of the Bank and therefore has filed a case against the Bank management. He also admits that he was not the witness in the criminal case, nor was a witness during the enquiry. It is noteworthy that Ram Kumar Joshi was in service till 1997 and during this period he has not given any evidence regarding this case. This witness is enmical

with the management and looking to the circumstances of the case he is not trustworthy.

Interestingly the worker has stated in the cross examination that he sustained fracture in finger, had it been so, the FIR would have been lodged & police ought to have investigated the case. There is no corroboration of this fact with the injury report. Worker is therefore not speaking true about the facts.

According to Sastry Award para 521 'gross-misconduct' shall include the following :

- 4(c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank;
- 4(e) wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;

According to Sastry Award :

An employee found guilty of gross misconduct may:

- (a) be dismissed without notice, or
- (b) be warned or censured, or have an adverse remark entered against him, or
- (c) be fined, or
- (d) have his increment stopped, or
- (e) have his misconduct condoned and be merely discharged.

The Hon'ble High Court of Madras between Ashok Leyland Ltd., Hosur and Presiding Officer, Labour Court, Coimbatore & another and between Michael Selvaraj S. and Presiding Officer, Labour Court Coimbatore & another published in 1, LLJ, 1999 page 788 has held :

"When the charge of assaulting his superior officer was proved, it would be improper to have any misplaced sympathy towards a workman. If the charges are minor in nature, in order to give him a chance for correcting himself, it is open to the Labour Court to impose lesser punishment. In such a circumstance, merely because the workman had put in several years of service, it is not open to the Labour Court to impose lesser punishment. The Labour Court/Industrial Tribunal should not entertain misplaced sympathy towards a workman and should not prejudice the issue from the angle of rehabilitation. The question of rehabilitation and reformation could arise in case of minor delinquency or misconduct. Where the charges are grave in nature, it is not open to the Labour Court exercising power under Sec. 11-A of the I.D. Act to interfere with the punishment imposed by the Management. The Labour Court and the Tribunal cannot mechanically use the words "the punishment being disproportionate" to the charges. Unless the Labour Court



finds the punishment to be highly disproportionate to the charges, it should not interfere."

In the present case the workman has been charged with 4 charges :

1. During the course of the worker's employment on 4-10-94 at about 4.45 PM in the cabin of Branch Manager, Shri Gopalan the worker indulged in abusing the clerk/cashier, Shri Sudhir Saxena & even worker indulged scuffles beating.
2. Worker on 4-10-94 and prior refused to execute the work of peon. Management did warn the worker repeatedly.
3. The worker on 5-10-94 was relieved, but in spite of relieve, he made his presence on attendance register on 6-10-94.
4. Worker refused to receive the letter dated 5-10-94 of Branch Manager, when the same was tendered to him.

None of the witnesses who have filed affidavit have proved the charge No. 3 & 4. However, all the three witnesses have proved charge No. 1 & 2. The statement of Shri S. K. Saxena in para 3 to 7 are as follows :

3. यह कि दिनांक 4-10-94 को सायं लगभग को शाखा सीपरी बाजार झांसी से रैमिटेन्स लेकर आया और प्रबंधक शाखा नागरा के केबिन में बैठ गया उस वक्त केबिन में श्री एस. डी. श्रीवास तथा श्री राम माहौर भी थे और श्रीवास श्री दिग्विजय सिंह, चपरासी गार्ड के काम न करने के संबंध में बात कर रहे थे।
4. यह कि इस पर प्रबंधक ने सिंह को बुलाया और उसे चपरासी का कार्य न करने के संबंध में पूछा तो उन्होंने कहा कि वे प्रधान कार्यालय के आदेशानुसार बैंक के स्थाई गार्ड हैं और उनसे चपरासी का कार्य नहीं लिया जा सकता है। यदि अन्य कार्य के लिए अलग से पैसा दिया जाए तभी चपरासी का कार्य करेंगे।
5. यह कि इस पर मैंने दोनों की बात बीच में रोकते हुए प्रबंधक से कहा कि साहब आपसे अनेक बार मौखिक तथा लिखित रूप में कहा गया है परन्तु आपके द्वारा कोई कार्यवाही न करने के कारण यह स्थिति आई है और ग्राहक सेवा भी प्रभावित होती है।
6. यह कि इस पर श्री दिग्विजय सिंह ने मुझसे कहा "चुप हो जा सुअर मैंने तेरे जैसे बहुत देखे हैं, सबको ठीक कर दिया है"।
7. यह कि इस पर शपथकर्ता ने श्री सिंह से गाली देने को मना किया तो उन्होंने गुस्से में मुझे मां बहिन की गाली दी एवं मेरा कालर पकड़ कर खींच लिए एवं दो तीन चांटे मार दिये इस पर मैंने उन्हें धक्का दे दिया एवं स्टाफ के श्रीवास, श्री माहौर एवं शाखा में खड़े दो तीन ग्राहकों ने बीच बचाव किया।

Another witness posted as Teller in the Bank Shri Ram Mahor has stated in paras 2 to 4 as under :

2. यह कि उस दिन शाम को साढ़े चार पांच बजे के आस पास प्रबंधक शाखा नागरा के केबिन में आया जहां श्री दिग्विजय सिंह तथा सुधीर कुमार सक्सेना के बीच जोरों की आवाज के साथ कहा सुनी हो रही थी।
3. यह कि मुझ शपथकर्ता ने सुना कि श्री डी. वी. सिंह ने सुधीर सक्सेना से कहा कि सुअर तू चुप रह इस बात पर सुधीर सक्सेना ने डी. वी. सिंह से अपशब्द कहने के लिए मना किया तो डी. वी. सिंह ने सुधीर का कालर पकड़ लिए और चांटे मारना शुरू कर दिया।
4. यह कि इस पर जब शपथकर्ता ने बीच बचाव करने की कोशिश की तो डी. वी. सिंह ने मेरे को धक्का मारते हुए कहा हट जाओ साले एक-एक को ठीक कर दूंगा।

The Asstt. Manager, Shri S. D. Shrivastava has stated in his affidavit from paras 2 to 4 as under :

2. यह कि दिनांक 4-10-94 को सायं 4.30 बजे प्रबंधक शाखा नागरा के पास बैठकर सुबह 11 बजे श्री डी. वी. सिंह द्वारा डे बुक से संबंधित किताबों के लिए कही बात के संबंध में कहा तो उन्होंने डी. वी. सिंह को बुलाकर पूछा तो श्री सिंह ने कहा कि स्टाफ उनके साथ ज्यादाती करता है और गार्ड होने के बावजूद चपरासी का कार्य करने को कहता है।
3. यह कि इसी वक्त श्री सुधीर सक्सेना केबिन में आये और कहने लगे कि श्री डी. वी. सिंह द्वारा चपरासी का कार्य न करने के संबंध में कई बार मौखिक एवं लिखित रूप से कहा है, जिससे बैंक कार्य में बाधा पड़ती है।
4. यह कि इस पर श्री डी. वी. सिंह ने श्री सक्सेना से कहा "सुअर तू चुप रह" इसी बात पर गरमा-गरमी और वाद-विवाद बढ़ गया और हाथापाई पर उतर आयी और इसी दौरान सुधीर के चांटा लगा उसने धक्का-मुक्की कर दी।

All the three witnesses whose statements have been cited above are trustworthy and are senior the workman, Digvijay Singh, the peon/guard. Their statements prove the gross misconduct of the workman. It is pertinent to mention here that prior to charge sheet dated 19-10-94 another charge sheet was issued to Shri Digvijay Singh on 19-10-91 for his riotous and disorderly behaviour and departmental enquiry was set up. It was during pendency of subsequent charge sheet enquiry he was posted at branch office Talbehat. It was not a routine transfer but was reinstatement in service after revocation of this suspension. In respect of charge sheet dated 19-10-91 served upon him, he was inflicted punishment of 'stoppage of two increments with cumulative effect' by the Disciplinary Authority vide orders dated 15-4-94. This fact

find place at para 6 of the written statement. The copy of charge sheet dated 19-10-91 is on the record filed by the Bank i.e. paper No. 9/160. The charges were as under :

1. Shri Digvijay Singh refused to carry out the work of cash peon on 10-5-91 and he remained unauthorised absent from the branch from 1.45 PM to 3.30 P.M. When he was asked to explain he did not put forth any explanation for his absence and misbehaved.
2. Shri Digvijay Singh absented since 2 PM on 5-7-91
3. Shri Digvijay Singh absented from 12.45 to 1.15 P.M. on 2-8-91
4. When the Branch Manager sought for explanation on 5-7-91, he refused to accept the show cause letter.
5. Shri Digvijay Singh thereafter came on 13-7-91 and he was asked to furnish the medical certificate then he snatched the attendance register from Dy. Manager and signed in the place of another employee.
6. Shri Digvijay Singh on 6-8-91 passed various remarks in the attendance register.
7. On 2-8-91 in context of letter of the Branch Manager which was related to his absence from the Bank, Digvijay Singh answered "हो सकता है उस समय आप ही हाल के अन्दर मौजूद न हो"
8. On 7-6-91 he instigated the police guard to lock the main gate at 5 PM.

The copy of order dated 15-4-94 is on the record by which Shri Digvijay Singh was inflicted punishment.

From the circumstances above it is evident that the workman, Shri Digvijay Singh is in habit of insubordination and misbehaviour. This is clear that charges against the workman, Shri Digvijay Singh are grave in nature he has assaulted his superior officer Shri S. K. Saxena which have been proved and therefore, it would be improper to have any sympathy towards the workman. In the circumstances I am of considered opinion that the workman, Shri Digvijay Singh was rightly removed from service by the disciplinary Authority and that does not call for any interference by this Court. The issue is therefore, answered in affirmative, in favour of the employer and I also come to the conclusion that the workman is not entitled to any relief.

LUCKNOW

19-7-2004

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का. आ. 2062.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.एफ.सी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-I के पंचाट (संदर्भ संख्या 73/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-04 को प्राप्त हुआ था।

[ सं. एल-12011/49/2001-आईआर(बी-II) ]

सी. गंगाधरण, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2062.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2001) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-I as shown in the Annexure, in the Industrial Dispute between the the employers in relation to the management of IFCI Ltd. and their workman, which was received by the Central Government on 26-7-04.

[No. L-12011/49/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT  
NEW DELHI**

Presiding Officer

Shri S.S. BAL

I.D. No. 73/2001

In the matter of dispute between :

The General Secretary,  
All India Industrial Finance Corporation,  
Employees Association, I.F.C.I. Tower,  
61, Nehru Place, New Delhi-110019.

Workmen

VERSUS

Industrial Finance Corporation of India Ltd.,  
The General Manager, I.F.C.I. Ltd.,  
I.F.C.I. Tower, 61, Nehru Place,  
New Delhi-110019

Management

**PRESENT:** Shri H.A. Khan for the Management.  
None for the Workman.

**AWARD**

The Central Government in the Ministry of Labour vide its Order No. L-12011/49/2001/IR (B-II) dated 7-9-2001 has referred the following Industrial dispute of this Tribunal for adjudication :—

"Whether the demand of All India Industrial Finance Corporation Employees Association for sale of 24

flats at Kanpur to Employees of I.F.C.I. only and not to the outsider (s) is justified? If not what relief the concerned association is entitled to?"

2. Facts of this case are that the workmen of the respondent demanded that 24 flats constructed by the respondent union be sold to the workmen as they are their employees but the respondent refused to oblige the workmen by selling flats. Workmen raised this industrial dispute. The question whether the demand of workmen for sale of 24 flats in their names amounts to an industrial dispute or not is no longer res-integra. Rather the same has been decided by the Allahabad High Court in a decision in Appeal No. 587/2004 I.F.C.I. Ltd and another Vs. M/s. B. K. Builders and others decided on 19-4-2004 where in the decision of the Ld. Asstt. Judge Kanpur and Civil Judge Kanpur were affirmed, holding that the demand of the workmen for selling 24 flats to them on account of their being employees of I.F.C.I. Ltd does not constitute an Industrial Dispute as the same does not relate to the service condition etc. of the workmen as contemplated in the provisions contained in Section 33 I.D. Act. The pertinent observation of the Allahabad High Court are as under :—

"Contracts have to be abided by the parties otherwise no one would ever enter into a contract. As regards the plea of the defendant appellants that in view of Section 33 of the Industrial Disputes Act the suit was not maintainable, we are of the opinion that this plea has no merit. Section 33 relates to change of conditions of service of the workmen during pendency of an industrial dispute before the Labour Court or Tribunal.?"

3. I am persuaded to follow the above said decision of the Allahabad High Court and I opine that the demand of the workmen pertaining to sale of 24 flats constructed by the respondent I.F.C.I. Ltd. in their respective names does not amount to an industrial dispute as the same does not relate to the service conditions of the workman as contemplated under the provision of section 33 of the I.D. Act as mentioned above. Reference is accordingly answered and award given. The application of the management dated 21-5-2004 also stands disposed of.

Dated : 20-7-04.

S.S. BAL, Presiding Officer

नई दिल्ली, 30 जुलाई, 2004

का. आ. 2063.—औद्योगिक विवाद अधिनियम, 1947 (1947 का. 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जीवन बीमा

निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट (संदर्भ संख्या 22C/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-7-04 को प्राप्त हुआ था।

[सं. एल-17012/64/97-आईआर(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 30th July, 2004

S.O. 2063.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22C/98) of the Industrial Tribunal Patna as shown in the Annexure, in the Industrial Dispute between the the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 23-7-04..

[No. L-17012/64/97-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER,  
INDUSTRIAL TRIBUNAL,  
PATNA.

Reference No. 22C of 1998.

Management of Life Insurance Corporation, Patna and their workman represented by the General Secretary, Life Insurance Workers' Union, Patna.

For the Management : Sri Satyendra Krishna Prasad,  
Advocate.

For the Workman : Sri Ashok Kumar Sinha,  
Advocate.

Present : Priya Saran, Presiding Officer,  
Industrial Tribunal, Patna.

AWARD

The 16th day of July, 2004.

By the adjudication order No. L-17012/64/IR (B-II) dated 29-6-1998 the Government of India, Ministry of Labour New Delhi has referred, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter to be referred to as (the Act)), the following dispute between the management of Life Insurance Corporation of India, Patna and their workman represented by the General Secretary, Life Insurance Worker's Union, Patna for adjudication to this Tribunal :—

"Whether the action of the Management of Life Insurance Corporation of India, Patna in terminating the services of Sh. Sheoji Singh, temporary Peon is legal and justified? If not, what relief the workman is entitled to?"

2. It may be mentioned at the outset that inspite of enormous time and several adjournments none of the parties have shown any interest in contesting the reference. The workman although filed his written statement contending interalia that he was appointed by the Authority concerned and posted at Dehri-on-Sone, Life Insurance Corporation of India and worked in the interest of the management since August, 1989 as a Class-IV employee continuously till his verbal termination on 22-7-94 but left contesting the case later. He has further mentioned in his written statement that he was neither served with any adverse remarks nor ever charge-sheeted. He has also claimed that neither notice with one month's pay nor retrenchment compensation u/s. 25(F) of the Industrial Disputes Act, 1947, was given to him thereby violating the provisions of Sec. 25(F). He has also noted his written statement that the management has violated the provisions of Sec. 25(H) as well as 25(N) of the Act. On these various grounds he has claimed his entitlement to reinstatement with full back wages and other consequential benefits.

3. The management on the other hand has not filed any written statement.

4. The terms of reference speaks that worker Sheoji Singh was alleged by a temporary peon in the Life Insurance Corporation of India. The worker was terminated verbally as alleged in his written statement. He has claimed that there has been violation of the provisions u/s. 25(F), (H) and (N) of the Act. It was obligatory upon the worker to establish his claim to the full requirement of the Act. He was under obligation to prove that he worked in Life Insurance corporation of India as class-IV employee and his termination from there was illegal and unjustified and he is entitled under law to his reinstatement with back wages and allied benefits. I have no hesitation what so ever to say that the worker did not show any interest in establishing his case by putting any evidence in his support. Neither documentary nor oral testimony is on the record in support of what he has claimed to answer the reference in his favour. Without any evidence I am to only believe and take it as such that there is no dispute between the parties and the claim of the workman has no bearing and legs to stand.

5. In the nutshell, it can be safely concluded in view of discussions aforesaid, that it is a case of no dispute and is to be decided as such.

6. Award accordingly.

Dictated & Corrected by me.

PRIYA SARAN, Presiding Officer

नई दिल्ली, 9 जून, 2004

का. आ. 2064.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/

24336/104-17

बैंगलूर के पंचाट (संदर्भ संख्या 21/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-6-04 को प्राप्त हुआ था।

[सं. एल-12012/176/2000-आईआर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 9th June, 2004

S.O. 2064.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 8-6-2004

[No. L-12012/176/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
"SHRAM SADAN"

III MAIN] III CROSS, II PHASE, TUMKUR ROAD,  
YESHWANTHPUR,

BANGALORE-560022.

Dated 27th May 2004

PRESENT:

Shri A. R. Siddiqui

Presiding Officer

C. R. No. 21/2001

I Party

Shri A. Ramesh Babu,

No. 60, 10th Cross,

1st Main Road,

Bovipalya,

Mahalakshmiapuram

BANGALORE-560086

II Party

The General Manager (P),

Syndicate Bank, Head Office,

P. B. No. 1,

MANIPAL-576119

KARNATAKA

AWARD

The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. L-12012/176/2000/IR(B-II) dated 2-3-2001 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Syndicate Bank is justified in terminating Shri S. A. Ramesh Babu, Data Entry Operator from service? If not, what relief the workman is entitled to?"

2. First Party appeared and filed Claim Statement. The case of the first party as made out in his Claim Statement is as under :

3. The case of the first party is that he joined the Second Party Bank as Clerk Cum Typist on 15-12-1983 and was confirmed in service. The first party was serving diligently, having an excellent, unblemished record of service until he was illegally dismissed from service vide order No. PRS (W)/BNG/DGM/99/100 dated 24-11-1999.

4. It is the further case of the first party workman that he was kept under suspension vide order dated 16-12-1998 and he was Chargesheeted on 28-1-1999. It was alleged in brief that the first party was engaged in trade/business outside the scope of employment with the bank and entered into financial dealings with the customers of the bank. The second charge was that the first party had issued several cheques drawn on the account maintained by the first party in the same bank, but the said cheques were dishonoured for want of funds. The first party vide his letter dated 10th March 1999 requested to the second party for the complain copies and certain other documents referred to in the chargesheet, so as to enable him to understand the charge and give a complete reply to the charge sheet. The first party did not get any reply for the said letter and being left with no other alternative submitted his reply dated 17-3-99 on 19-3-99, denying the allegations levelled against him in the charge sheet, even without the material particulars. The second party inspite of receiving the reply, without considering the same stated that the first party had not furnished his reply and proceeded to conduct a force of an enquiry.

5. It is the further case of the first party that the enquiry was against the principles of natural justice and totally one sided. The enquiry was conducted in a slipshod manner and infact the entire evidence was recorded and enquiry concluded on 2-8-99 itself. The enquiry Officer was biased and reduced the enquiry an empty formality. The enquiry is not fair and proper. The Enquiry Officer gave his perverse findings holding that the first party workman was guilty of both the charges. It is submitted that no reasonable person could have held the charges as proved based on the material on record. The findings of the enquiry officer does not contain any reasoning and is based on presumptions and assumptions. Hence the findings are totally perverse and cannot be sustained in law. On 20-10-99, the first party workman gave a detailed written submission on the enquiry officer's findings and the said disciplinary authority without. Considering the same, accepted the perverse findings of the Enquiry Officer and issued an order dated 25-10-1999 proposing the extreme punishment of dismissal. The first party was also given oral hearing dated 10-11-1999, however the same was only a formality and inspite of valid reasons given by the first party for not imposing the punishment of dismissal, the

second party proceeded to pass the order of dismissal dated 24-11-99. Hence the entire disciplinary proceedings are without application of mind and farcical.

6. That the first party time and against pleaded before all the authorities that the management cannot proceed against him on the allegations, even if proved, as the same do not constitute misconduct. The allegations in the charge sheet itself reveal that the first party has not caused any financial loss to the bank or has he committed any fraud, misappropriation of bank funds. The allegations against the first party that he has not honored the cheques, if proved, may be an offence under the law of the land, but that by itself cannot be a ground for imposing the extreme punishment of dismissal from service.

7. It is the further case of the first party that he has been discriminated singled out and punished, because he was helpless. It is submitted that without admitting, even presuming for the sake of arguments, hat the charges have been proved, the very fact that such an extreme, excessive, disproportionate punishment has been resorted to, proves victimization and unfair labour practices and on this ground also the order of dismissal cannot be sustained and is liable to be set aside. The first party workman has served for 16 years and he has been appreciated on several occasions for his excellent service. Therefore, he requested this Tribunal to allow the reference and direct the management for his reinstatement in service with full backwages and continuity of service etc.

8. The Second Party appeared and filed written statement. The 2nd party challenged the various averments made in the Claim Statement dubbing them as false and frivolous. Its contentions are as follows :

9. The contentions of the first party that he was servicing diligently, having an excellent, unblemished record of service with the 2nd Party bank are all false. He was issued with the charge sheet dated 12th February 1998 for issuing 28 cheques for considerably huge amount without maintaining sufficient balance in his saving bank account. The management took a tenant view and imposed a punishment of "Reduction of his Basic Pay by two states for a period of three years.

10. It is the further case of the second party that there was a huge number of transactions in his Saving Bank Account No. 100096 at Gandhinagar Branch, Bangalore during the period between 1-4-1995 and 19-10-1998. He had issued 144 cheques for amount aggregating to Rs. 14.67 lakhs favouring different persons and during the period between 3-5-1995 and 1-1-1998, he made cash remittance on several occasions to his Saving Bank Account and the remittance on each such occasion being Rs. 10,000/- and above.

11. It is further contented that the management had issued a circular dated 16-4-1994, mentioning therein that, issuing of cheques by the employees of the 2nd Party

bank, without maintaining sufficient balance in their respective Account, is a serious misconduct, and the concerned employees will be proceeded with departmentally, and are liable for deterrent punishment under the provisions of the Bipartite Settlement. In the enquiry the first party workman was assisted by one Shri K. Srinivasa Babu, State Secretary, Syndicate Bank Staff Union. In the enquiry, one witness was examined on behalf of the management and 7 documents were marked. The management witness was duly cross examined by the defence.

12. It is the further case of the second party that the contention of the first party that the Enquiry Officer gave perverse findings against the first party is false and denied. The Enquiry Officer, after analysing the evidence and the documents produced before him in the enquiry, has arrived at a right conclusion that the first party is guilty of charges. The findings of the Enquiry Officer are not based on presumption and assumption as contended by the first party in his Claim Statement but is based on the evidence and documents that are produced in the enquiry.

13. That the second party management has imposed proper punishment on the workman for the grave misconduct committed by him. The punishment is very much in accordance with the gravity of misconduct committed by him and the same is not to be interfered by this court. The charge sheet was issued to the first party workman for not maintaining the sufficient amount in his account which is in violation of the bank circular and it has nothing to do with a criminal case filed by an outsider against the first party. the contention of the first party that the 2nd party has not considered the legal position before imposing the punishment is not correct.

14. The first party has committed a serious misconduct and he has been dismissed for proved misconduct. The punishment is imposed not by way of any victimization or unfair labour practice. The 2nd Party management has prayed that an opportunity may be given them to lead fresh evidence to establish the charges against the first party in case enquiry held to be fair and proper.

15. Therefore the management requested this tribunal to reject the reference and pass award in its favour.

16. Keeping in view the pleadings of the parties with regard to fairness and validity or otherwise of the enquiry conducted by the Second Party against the first party, a preliminary issue was framed on the point and since the learned counsel for the first party workman conceded the fairness of the enquiry, the matter was taken up for hearing of the arguments on merits of the case including the point of perversity of enquiry findings and the legality of the imposed punishment order.

17. Now, therefore, in the light of the above, the first and foremost point to be gone into would be as to whether

the enquiry findings holding the workman guilty of charges of misconduct alleged against him suffered from any sort of perversity much less arbitrariness'.

18. The learned counsel for the first party workman Shri A. J. Srinivasan vehemently argued that the findings of the Enquiry Officer suffered from perversity in as much as there was no legal evidence or sufficient evidence brought on record during the course of the enquiry in proof of the charges against the workman. He first of all contended that the alleged charges of misconducts as they stand, do not constitute misconduct under the provisions of standing orders of the management or Bipartite agreement, and there is no proof of the workman indulging in any sort of trade or business outside the scope of employment so as to hold him responsible for any prejudicial act to the interest of the second party. In this context he cited the following citations :

- (1) 1990 1 LLJ 675-Suresh A. Kerkar Vs. S. V. Novagi, P.O.
- (2) 1994 II LLJ 287 SC Saha Vs. Union of India and Others.
- (3) 1985 Lb. IC 1800-Smt. Nandita B. Palekar Vs. Y.S. Kasbekar & others.

19. He contended that the Enquiry Officer has illegally acted upon the oral testimony of the management witness, MW1 and at the same time wrongly thrown the burden of proof on the shoulders of the workman. He contended that statement of MW1 said to be the Investigation Officer in this case was not to be relied upon there being no report of investigation placed before the Enquiry Officer. He contended that the testimony of MW1 was an hearsay evidence, it being not supported by any other independent and material witness to speak to the charges against the workman. He relied upon the following rulings on the point:

- (1) AIR 1957 Patna 145-Ramesh Chandra Vs. H. D. Jain College.
- (2) AIR 1995 Delhi 164-Asa Ram & Another Vs. MCD & Others
- (3) ILR 2000 KAR 3501-Anjinappa and Others Vs. State of Karnataka.
- (4) 1963 II LLJ 371 (SC)- Kesoram Cotton Mills Ltd. Vs. Gangadhar.
- (5) 1986 Lab IC 1939 Kashinath Dikshita Vs., Union of India
- (6) 1999 I LLJ 604-Kuldeep Singh Vs. Commr. of Police
- (7) AIR 1972(SC) Pg. 370-M/s. Bareilly Electricity Supply Co. Ltd. Vs. The Workman and Others.
- (8) FLR 1988(57) 149-Ananda Chakraborty Vs. Union of India.



- (9) AIR 1997 SC 796-Krishnand Agnihotri Appellant Vs. State of M.P.
- (10) 1986 ILLJ 101 Anil Kumar Vs. P.O. and others.
- (11) 1986 II LLJ(SC) 390 Swai Singh Vs. State of Rajasthan.
- (12) 1997 I LLJ 206 Chandrakumar Madhukar Deshmukh Vs. The Board of Trustees.

20. He contended that passing of order on the basis of documents without proving the contents of the documents with the help of the witnesses is bad in law and relied upon the ruling reported in AIR 1989 Patna 66-Mostt. Rajwati and Another Vs. Joint Director Consolidation, Govt. of India.

21. He argued that no direct witness in the form of bank staff or private persons have been examined to establish the first charge of misconduct levelled against the workman. Therefore, he submitted that there was no legal evidence on record for proof of the charges of misconduct. Here he further argued that transactions of any magnitude such as involved in this case would not lead to the conclusion that they pertained to any trade or business alleged to have been carried out by the workman. These transactions at the most give rise to the suspicion but will not take the place of proof.

22. With regard to the Second Charge against the workman, he contended that as per the circular issued on administrative side, the act of workman issuing certain cheques without sufficient fund in his account may amount to unhealthy practice but not the misconduct as Bipartite agreement or standing orders do not have such provision. He also contended that it is a case of 'double jeopardy' as most of the cheques finding part of the second charge were also the subject matter of earlier charge sheet issued to the workman on the basis of which he was already punished by way of withholding of his certain increments. With regard to the punishment order, he argued that punishment of dismissal was too severe and extreme keeping in view the alleged misconduct in as much as had he opened his account in some other bank, there would not have been any charge of misconduct by the second party. Therefore, he submitted that under the circumstances of the case the workman deserved lenient view.

23. Whereas, the learned counsel for the second party Shri Ramesh Upadhyaya argued that charges of misconduct not only have been proved by the oral and documentary evidence but also in the very admissions made by the workman, himself. He submitted that the workman all along maintained to say that the charges alleged against him do not constitute misconduct. He never denied those charges or the allegations made in the statement of the charges with regard to the transactions he indulged in during the period in question. He contended that in the face of the magnitude of the transactions involving several lakhs of

rupees in a span of 3 to 4 years in the absence of any acceptable explanations and the evidence on his part of the, the only and only conclusion to be drawn would be that the amount involved in those transactions pertained to some trade or business being carried out by the workman outside the scope of his employment. His salary being a meager sum of Rs. 4000/- per months, he submitted that there was no need for the management to place on record the report of investigation officer who was examined by the Enquiry Officer and MWI as the evidence collected by him during the course of his investigation was not placed on record and that he spoke only on the documents which were maintained by the bank in the daily course of business, the veracity and genuineness of which was not disputed by the workman. He submitted that there being no denial of the fact of the transactions involved, the burden of proof was shifted upon his shoulder to explain as to how and from what sources he got the money under transactions and for what purpose those transactions were taken place. His defence that he borrowed handloans from others and that he needed funds for medical treatment of his parents was without any basis, not supported by any oral or documentary evidence. Therefore, the conclusion arrived at by the Enquiry Officer that the workman is indulged in trade or business outside his employment was perfectly correct and legal. With regard to the second charge, the learned counsel submitted that the instructions under the aforesaid circular made it clear that the employees are not supposed to issue cheques without keeping sufficient balance in his or her accounts resulting into dishonouring of the cheques issued and that such a practice as an unhealthy practice warranting severe punishment and therefore, it cannot be said that such a misconduct on the part of the workman was not prejudicial to the interest of the management. On the point of punishment he submitted that the workman having been punished earlier and not mending his ways, deserves no lenient view particularly, when the reputation and image of the management is at stake.

24. After having gone through the records, I find substance in the arguments advanced for the second party. Before adverting upon the various contentions raised by the parties I would like to bring on record the very charge sheet issued against the workman, as under :—

#### 25. Charge Sheet

" That you were functioning as Telex operator from January 1985 to July 1997 and thereafter as Data Entry Operator at our Zonal office, Bangalore till you were placed under suspension on 16-12-1998 vide proceedings No. 02/98/IRC/S dated 16-12-1998 of the Competent Authority. While functioning in your position as under:

- (1) You maintained an SB A/C No. 100096 at our Gandhinagar Branch, Bangalore, wherein huge transactions are noticed.



- (2) You issued 9 cheques favouring third parties for amounts aggregating to Rs. 5,57,762/- during the period between 15-10-97 and 17-10-98 which were dishonored for want of funds in your said SB A/c.

Following circumstances appear on record in respect of the above transactions:

- (1) In the matter of No. 1 above:

That while you were functioning as Telex Operator/ Data entry Operator from January 1985 to our Zonal Office, Bangalore, you opened as SSB A/c No. 96 on 2-1-1985 which was subsequently numbered as SB100096. Normally, the staff saving bank account reflect transactions like salary/ allowance/ received/ with drawn, the loan/ Sundry advance proceeds credited and adjusted. etc. However the records pertaining to your said SB Account reveal that:

- (i) There is turnover of about Rs. 22.56 lakhs during the period between 1-8-1995 to 24-11-1998
- (ii) You issued 144 cheques for amounts aggregating to Rs. 14.67 lacs favouring certain individual, bank's staff members, etc. a few of whom are customers of the bank during the period between 1-4-1995 and 19-10-98, the details of which are furnished in Annexure-I.
- (iii) You made cash remittances of Rs. 10,000/- and over aggregating to Rs. 5.00 lacs to your above mentioned SB account during the period between 3-5-1995 and 1-1-98, the details of which are furnished in Annexure-II.
- (iv) There were credits by way of clearing and transfer entries for amounts Rs. 10,000/- and over, aggregating to Rs. 11.30 lacs during the period from 10-6-1996 to 13-3-1998, the details of which are furnished in Annexure-III.

The above circumstances go to indicate that you were/are engaged yourself in trade/business outside the scope of your employment with the Bank and entered into financial dealings with the customers of the Bank. However, there is nothing on record to indicate that you had informed/obtained prior permission from the competent authority in this regard. The above acts on your part constituted gross misconduct vide clause No. 19.5 of the Bipartite Settlement. You are therefore, charged for gross misconduct of "engaging in the trade/business outside the scope of your duties" vide clause No. 19.5(a) of the Bipartite Settlement.

- (2) That while functioning in your said position you issued the following cheques favouring third parties drawn on your SB Account No. 100096 maintained at your Gandhinagar Branch, Bangalore, and were dishonored for want of funds in the account.

Sl. No.	Cheque No.	Date	Drawee	Amount (Rs)	Date of return
1.	762701	24-2-98	LIC	762/-	27-2-98
2.	701109	10-3-98	Bharath JV	2,70,000/-	12-3-98
3.	681169	15-10-97	H C Leela	50,000/-	6-4-98
4.	758695	5-4-98	S R Meera	15,000/-	6-4-98
5.	762706	28-6-98	K.R Umadevi	2,000/-	9-7-1998
6.	683962	17-10-98	Indumathi Gurpur	20,000/-	19-10-98
7.	745431	20-12-97	K. B Shetty	1,50,000/-	27-5-98
8.	687971	2-1-98	K. B. Shetty	30,000/-	27-5-98
9.	766171	29-12-97	MBS Shetty	20,000/-	27-5-98

- (3) The cheques vide Sl. Nos 7,8 and 9 above were earlier presented on 3-1-1998/5-1-1998 and were returned unpaid for want of funds before returning for the second time on 27-5-1998. The payee of the said cheques have complained that the money borrowed by you has not been repaid yet. The above acts of issuing cheques without maintaining sufficient balance by you is in contravention of guidelines issued vide HO circular No. 90/94/BC dated 16-4-94 and constituted gross misconduct on your part within the meaning of Clause No. 19.5 (i) of the Bipartite Settlement. You will continue to remain under Suspension in terms of Suspension order No. 2/98/IRC/s dated 16-12-1998. You are directed to submit your written statement of defence, if any, within 15 days from the date of receipt of this chargesheet."

26. After recording or oral evidence of W1 and getting marked the documents at Ex. MEX 1 to MEX 7, during the course of his statement, the Enquiry officer submitted his enquiry report. His reasonings and observation are under the heading 'Analysis of Evidence' are as follows:—

#### 27. Analysis & Evidence

"I have carefully gone through the Chargesheet issued to Sri S.A ramesh Babu, his replies dated 10-3-1999 and 17-3-1999, the evidence given by the Management Witness, Cross examination of MW by the defence and also the Statement made by Shri Ramesh Bahu, the CSE. Though the MR and DR were given opportunity to file their respective written arguments, no one submitted the same.

#### 28. In respect of Charge No. 1

The CSE has been accused for engaging in trade/business outside the scope of his employment which as per the provision of the Bipartite settlement is a gross misconduct. The CSE in his replies to the chargesheet as well as before the enquiry forum stoutly denied having engaged in any trade or business or into any financial dealing either with the staff or customers or the public. Whereas, the management side through the investigating

officer (MW-1) by producing the certified copies of the ledger folios of CSEs SB account strongly contends that the huge transaction appearing in his account 144 cheques issued by him to customers/staff and other individuals, the frequent cash remittances exceeding Rs. 10,000/- made in his SB Account and the frequent credits made in his account by clearing and transfer instruments will reveal that the employee was engaged in trade and business. It is the case of the management that the varieties of the transaction from Rs. 5000/- to Rs. 8,50,000/- will reveal that the account is not pertaining to the transactions of CSE a salary alone and that the same pertains to his business also. The details of the transactions which give suspicion on the part of the CSE are given below :

Particulars	Amount	period
Total transactions	Rs. 22.56 lakh	1-8-95 to 24-11-98
Issued 144 cheque for	Rs. 14.67 lakh	1-4-95 to 19-10-98
Cash remittance of Rs.10,000 and above for	Rs. 5.00 lakh	2-5-95 to 1-1-98
Credits by clearing and Transfer of Rs. 10,000/- and above for	Rs. 11.30 lacs	10-6-96 to 13-3-98

#### Defence of the CSE

With regard to the allegation that he issued 144 cheques aggregating to Rs. 14.67 lacs, the CSE in his reply dated 17-3-99 to the chargesheet claims that most of the cheques were issued by him to one Smt. K.R. Uma Devi towards maintenance payable by him. Other credits and debits seen in this account are pertaining to hand loans taken by him from close friends and relatives. There were also transactions pertaining to payment of his travel bill towards LFC, payments made to share broker towards genuine investments, payments made to the vendor towards installments for purchase of site and that none of the transactions mentioned in the charge sheet represent any trade or transactions reflected in his SB account running into several lacs, he submitted before the enquiry forum by way of statement on 2-8-99 that his parents were not well and hence he had to hospitalize them and during the said period, he had to incur heavy expenditure and was forced to take hand loans from known people and relatives. The above contentions of the CSE are in the form of his defence to the charge leveled against him. Though the CSE made the above averments, he did not examine himself as a witness before the enquiry to substantiate his above averments and also to establish his innocence. If the above transactions are genuine and pertaining to hand loan, hospitalization expenses etc., the CSE is obliged to make himself available for cross examination in the enquiry. It is the duty of the CSE to establish his defence beyond doubt.

The onus of proof to establish his statements/defence is solely lying on the CSE. By not examining himself as a witness. In my view he has failed to establish his defence. I also wish to place on record that not only that the defence side has not examined any witness, but also they have not produced any document in support of their case. Since the transactions in question running into several lacs, covering a short period of 36-40 months, the defence of the employee cannot be accepted without any proof. Though there will be documentary evidence for the hand loans taken by the CSE, the expenses incurred by him, the hospitalization of his parent and the expenses incurred thereupon, the CSE has miserably failed in not bringing them before the enquiry, not a single documentary evidence to authenticate his borrowings and other expenses. The net salary of the above employee during the period in question was around Rs. 3400/- to Rs. 4400/- Whereas there are 75 cash remittances each more than Rs. 5000/- and running into several thousands. Though the CSE was given the opportunity to prove his case, he has not informed as to from where these credits came to his account. There are also several credits less than Rs. 5000/-. Such credits alone exceed more than Rs. 5 lac during a period of 39 months. Further, the CSE has issued 144 cheques of which 23 were returned for insufficient balance in his account. As a salaried employee, drawing net salary around Rs. 4000/-, the CSE is expected to show evidence as to why he issued those cheques, to whom he issued and for what purpose. He is also expected to reveal the sources from where he gets funds to meet the amounts involved in the above said 144 cheques. The amount of said cheques is aggregating to Rs. 14.67 lacs. I can definitely say that no employee whose source of income is salary alone cannot issue cheques for Rs. 14 lacs. On the other hand I can easily infer that there are certain other sources of income to the CSE for meeting the above cheques. The CSE's SB account further reflects so many credit entries by way of clearing and transfers, each more than Rs. 10,000/- and totally aggregating for Rs. 11.50 lacs.

30. It has come on record that the investigating officer visited the residence of the CSE on two occasions and on both the occasions he did not explain nor cooperate with the said official to find out the correctness/genuineness and veracity of the above said transactions running into several lacs. The CSE told the said official that he would be meeting him in the office to discuss the matter, but he never turned up to meet the Investigating Officer. This also shows the guilty consciousness of the CSE and by not co-operating with the investigating, the CSE himself has weakened his stand. The CSE not even submitted a written statement before the Investigating Officer, explaining the purpose for which he entered into transactions running into several lacs. It has also come on record that the CSE has been issued around drawing a net salary of around Rs. 4000/- cannot indulge in huge number of transactions running into several lacs as mentioned in the charge sheet.

His non-cooperation with the Investigating Officer, not examining himself as a witness, not bringing any documentary evidence to support his sources of income/expenses and also his failure to disprove the allegations of the chargesheet clearly establish beyond doubt that the CSE was engaged in trade/business in addition to his employment, which is a gross misconduct. I, therefore, state that the first charge framed against the CSE is conclusively proved.

### 31. In respect of Charge No. 2

This charge is pertaining to returning to 9 cheques issued by Shri S.A. Ramesh Baby to different parties for want of balance in his account. According to the charge sheet the payee of the cheques mentioned in Sl. No. 7, 8 and 9 of the chargesheet have complained that the money borrowed by the CSE was not repaid. Such acts of issuing cheques without sufficient balance by the CSE is in contravention of Bank's Cir. 90/94/BC and the same constitute gross misconduct in terms of Clause 19.5 (j) of the Bipartite Settlement. To substantiate the above charge, the Investigating Officer deposed in the enquiry that the total amount of the above 9 cheques issued by the CSE was around Rs. 5.57 lacs and that issuing cheques without balance was in violation of Cr. No. 90/94/BC. The Defence of the CSE for the above allegations is that he was earlier issued chargesheet dated 12-2-98 for issuing 28 cheques without balance and that he was also awarded punishment of Reduction of Basic Pay by 2 stages for 3 years. The said chargesheet also contained the cheque numbers mentioned against S. No. 7, 8 and 9 of the present charge sheet. The CSE in his reply to the chargesheet requested for photo copy of Cir. No. 90/94/BC. This Circular was neither produced in the enquiry nor supplied to the CSE that the earlier chargesheet issued to him for 28 cheques contained particulars of 3 cheques mentioned in the present chargesheet was not rebutted by the management side. Similarly though the CSE asked for copies of the complaints given by Shri K.B. Shetty and Sri MBS Shetty which were referred in the chargesheet, they were not furnished to the CSE either in the enquiry or before ordering the enquiry. Having considered the defence evidence in respect of the cheques mentioned against Sl. No. 7, 8 and 9 of the chargesheet, I want to place on record that the copies of the complaints given by these parties which were referred in the charge sheet and requested by the CSE were not made available before the enquiry, so also the management side could not disprove the statement of the CSE that these cheque numbers have already figured in the earlier charge sheet issued to him and for which he was punished, I therefore, consider the defence of the CSE in his favour. Accordingly, I am deleting these 3 cheques from charge No. 2 for the purpose of appreciating evidence on Charge No. 2.

32. In respect of other 6 cheques, the CSE in his reply states that for 2 cheques he already settled the dues by paying cash, for another 3 cheques he issued stop payment

instructions as the said cheques were lost in transit and the cheque mentioned against Sl. No. 2 was presented by the party against the understanding between him and the party. He further pleaded that the cheque issued for Rs. 2.70 lacs was settled. Further the CSE has pleaded that issuing of cheques without balance is not misconduct either in terms of Cir. 90/94 or Bipartite Settlement.

33. With regard to the above defence, I observe that except his oral submissions, the CSE has not adduced any supporting oral or documentary evidence. His plea that he already settled the dues to the parties mentioned in the charge sheet cannot be accepted as there is no proof nor he appeared as a witness in the enquiry for cross examination. I am also enclosing herewith a photo copy of Cir. No. 90/94/BC wherein it is stated that issuing cheques without maintaining sufficient balance by the staff members will be viewed seriously and the concerned employees will be proceeded with departmental action and they are liable for deterrent punishment under the provisions of Bipartite Settlement. In my view issuing of cheques without balance is a serious misconduct and also an offence under the law of the land. The CSE being an employee employed in a public sector bank and dealing with public money cannot himself indulge in acts of issuing cheques without balance is a serious misconduct and also an offence under the law of the land. The CSE being an employee employed in a public sector Bank and dealing with public money cannot himself indulge in acts of issuing cheques without balance as the same will badly tell upon him and also on the general conduct of the Bank employees. Such acts may also result in customers and public losing faith/confidence in bank employees. Such acts, therefore, bring down the image of the Bank in the eyes of the customers and the general public. It is very badly reflecting on the CSE that having been already issued with a chargesheet for similar act in the past, he again ignoring the punishment awarded to him resorted to repeat the same misconduct. I therefore, wish to state that the CSE's above acts are acts detrimental to the interest of the Bank. Accordingly, I hold him guilty of the charge of doing acts prejudicial to the interest of the Bank. Summing up the above analysis of evidence, I would like to state that I do not agree with the defence of the employee that he has not committed any grave act for issuing chargesheet and for placing him under suspension. The misconduct of issuing huge number of cheques, receiving credits running into several lacs, etc. as mentioned in the charge sheet are quite grave, warranting deterrent action against the CSE. In nutshell I can say that there is no substance at all in the defence taken by the employee. Whereas the allegations framed against him were sufficiently established by the management relying on various documents and also through oral evidence. Whereas there is no evidence worth mentioning from the side of the defence. I also firmly believe that a person who does transactions running into several lakhs shall definitely maintain records containing the details of such transactions

with names of the persons, the purpose of the transactions etc. In the instance case if the transactions covered in the period in question are genuine and relating to genuine borrowings and expenditures as claimed by the CSE, in that case the CSE should have brought on record the details of the persons involved, the names of the borrowers, the purpose of borrowings and the details of the expenditures. As he has not disclosed these informations, it is evident that the said transactions are not genuine and not relating to/confined to his earnings made from his salary. This will also prove that he had other sources to earn and spend which is possible only if he had engaged in some other trade/employment. Therefore, the above analysis of evidence based on the oral and documentary evidence made available in the enquiry and the circumstantial evidence appearing against the CSE amply establish that the CSE was engaging in trade/business outside the scope of his employment and by issuing cheques without sufficient balance in his account he committed acts prejudicial to the interest of the Bank.

#### 34. Findings

In the above circumstances, I hold that the charge No. 1 and 2 framed against Shri S.A. Ramesh Babu, Clerk (U/S), Zonal Office, Bangalore with which he stands charge sheeted vide charge sheet No, CGS (W)/BNG/99/12 dated 28-1-99 are conclusively proved in the enquiry held by me."

35. Keeping in view the aforesaid observations made and the reasonings assigned by the Enquiry Officer in proof of the charges of misconduct, I am not inclined to hold that the conclusion arrived at by the Enquiry Officer suffered from want of legal and material evidence. As argued for the management, there was voluminous documentary evidence in Ex. MEX 1 to MEX 7 produced before the Enquiry Officer in support of the charges leveled against the workman and that the oral evidence to get the aforesaid documents marked in the course of statement of MW1. The oral evidence of MW1 even if not to be acted upon on the ground that it is a here say evidence, then again one just cannot ignore the host of the documents placed by the management during the course of enquiry, the veracity and genuineness of which is yet to be disputed by the workman. As argued for the management, the various transactions which are the subject matter of the aforesaid two charges of misconduct, were never disputed by the workman at any point of time except say that they themselves do not constitute any sort of misconduct. Therefore, non production of the investigation report by MW1 cannot be said to be a circumstance fatal to the case of the management as the oral testimony of MW1 considered by the Enquiry Officer was in relation to the aforesaid documents maintained by the Second Party management. Now the only short question to be considered would be as to whether the various transactions carried out by the workman would lead to an inference that he indulged in trade/business outside the scope of his employment. The transactions covering the period in

question not being disputed by the workman, his contention that there was no direct proof or evidence placed on record to establish the fact that he indulged in those activities deserves no merit. The magnitude of the transactions involved themselves speak a lot about the extraneous activities of the workman. An employee earning a meager salary of Rs. 4000/- monthly, ill afford in dealing of transactions involving the lakhs amount that too within the span of 3 to 4 years. In the face of these transactions, as noted above, not disputed by the workman nothing more was required on the part of the management to lead any further evidence with regard to the activities of the workman engaging himself in trade/business outside the scope of his employment. It is quite possible that the people with whom he transacted were not supposed to oblige the management to give evidence against the workman. That apart, it is how well established principle of law that when both the parties have led evidence, the burden of proof losses its importance. Under the facts and circumstances of the case and the admissions made by the workman and that there was no denial of the fact of the aforesaid transaction by the workman, the burden of proof shifted upon his shoulder itself and it was for him to prove as to what were his resources and sources and the purpose of those transactions carried out by him. He in fact had taken a defence of having obtained certain hand loans from his friends and relatives, made certain payments towards maintenance and that he had to incur heavy expenses for the medical treatment of his parents but, unfortunately, as observed by the Enquiry Officer he produced no oral and documentary evidence in this regard. He was supposed to maintain the accounts incurring such a heavy expenditure particularly, he being a bank employee and withholding of those accounts, must necessarily lead to an inference that either he had maintained no such accounts or had he produced them during the enquiry, they would have gone against him. Therefore, in the light of the above it is very difficult to find fault with the findings of the Enquiry Officer holding the workman guilty of charge No. 1. The reasoning assigned by him was based upon legal and sufficient evidence and therefore, it cannot be said that the findings suffered from any perversity so as to be interfered at the hands of this tribunal while exercising the powers under Section 11A of the ID Act.

36. Now coming to the Second Charge there is again no denial of the fact that the workman indulged in issuing many number of cheques keeping no sufficient funds in balance in his accounts resulting into the dishonouring of those cheques. His contention that it was a case of double jeopardy, he being already punished for such a charge earlier, holds no water. The perusal of the findings recorded by the Enquiry Officer on the Second Charge, make it abundantly clear that the 3 cheques mentioned against Sl. No. 7, 8 & 9 which were subject matter of the earlier of charge sheet were left over and not considered by the Enquiry Officer in proof of the charge leveled against the

workman. The Enquiry Officer on this point has given his finding, separately. If we ignore those 3 cheques they being subject matter of earlier charge sheet for which the workman has already been punished, then again, there is no escape for him to come out of the clutches of the rest of the other six cheques involved in this charge. The only arguments advanced to meet this charge was that issuing of cheques in the manner done by the workman is not a misconduct as defined under the standing orders of the management or in terms of Bipartite Settlement and that violation of instruction by way of circular do not amount to misconduct as much as it was not a "healthy practice" in doing so in the very words of circular. By going through the wordings of the circular one cannot appreciate this contention of the first party. The instructions found in the circular have made it very clear that their non compliance will amount to unhealthy practice inviting disciplinary action with deterrent punishment. These instructions in the circular are to be read with clause 19(5)(j) of the Bipartite Settlement. The above said act of the workman is certainly prejudicial to the interest of the bank amounting to misconduct under he above said clause. Therefore, by no stretch of imagination it can be said that it was a case of misconduct. In the result the various citations taken support of by the learned counsel of the workman will not come to his rescue. The principle laid down in those rulings though are not a disputable, yet, they are not applicable to the facts of the present case.

37. In the result for the reasons foregoing, I have no hesitation in my mind to come to the conclusion that the findings of the Enquiry Officer do not suffer from any perversity calling interference of this court.

38. Now coming to the question of punishment, learned counsel for the first party submitted that even if the misconduct alleged against the workman is taken to be proved, the extreme punishment of dismissal is not warranted, it being not commensurate to the gravity of the alleged misconduct. Whereas, the learned counsel for the Second Party justified the punishment in view of the very defence taken by the workman and the fact that he had already been punished for a similar misconduct. I find force in his argument.

39. In the instant case there are no mitigating circumstances giving a scope for lenient view. On the other hand there are two strong circumstances going against the workman not favouring such recourse. The first one is his stubborn attitude and the assertion, through out, that the charges of the allegations of misconduct against him, as they stands, do not constitute misconduct at all. Thereby, he maintained to say that even if these charges or allegations were taken to be proved, it is not a case of misconduct. That means to say that he has no regrets for the acts he indulged in and that he has no mind to mend his ways even in future. The second circumstance is that he had already been punished for the misconduct he committed in issuing many

number of cheques without keeping balance in his accounts resulting into the dishonouring of those cheques. He repeated the same misconduct once again and took up the very same defence saying that it is not misconduct but only an unhealthy practice' as per the said circular, having no force of law. Therefore, under the facts and circumstances of the case, I am of the opinion that the punishment of dismissal was quite proportionate and commensurate to the gravity of misconduct committed by the workman and hence it is to be maintained. In the result the reference deserves to be dismissed. Hence the following Order.

#### ORDER

Reference is dismissed. No order as to costs.

(Dictated to PA transcribed by her corrected and signed by me on 27th May, 2004)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 27 जुलाई, 2004

का. आ. 2065.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.ई.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./105/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-07-2004 को प्राप्त हुआ था।

[सं. एल-22012/478/91-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 27th July, 2004

S.O. 2065.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/105/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 27-7-2004.

[No. L-22012/478/91-IR(C-II)]

N.P. KESAVAN, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### PRESENT:

SHRIKANT SHUKLA, Presiding Officer

Case No : CGIT/LC(R) (105)/1995.

Between Branch Secretary, RKKMS (INTUC) Korba Colliery, Distt : Korba (presently Chhattisgarh)

#### AND

The Chief General Manager, SECL Korba (East) Korba Colliery, Distt Korba Bilaspur (presently Chhattisgarh)

The Government of India, Ministry of Labour vide their order No. L-22012/478/91 (IR) (C. II) dated. 2-6-1992 referred the following dispute for adjudication to the Presiding Officer CGIT-cum-Labour Court, Jabalpur.



“Whether the action of the management of Korba (East) SECL, Bilaspur in not regularizing S/Shri Mathura Lal S/o Ramdayal, Puniram S/o Harisingh, Rampal S/o Budhram, Mohan S/o Mangal, S. Tigga S/o K. Tigga and Dharama Rao S/o K. Puttan, workmen is legal and justified? If not, to what relief the concerned workmen are entitled to?”

The Secretary, RKKMS (INTUC) had filed Statement of Claim with the allegation that S/Shri Mathura Lal, Puniram, Rampal, Mohan, S. Tigga and Dharamrao have been continuously working at main Water Supply (Filter Plant) of Civil Deptt., Korba (East) of SECL Company under the direct supervision and control of Company management. The period of employment as alleged by the Union is as under :

Sl. No.	Name of workman	Period worked		Period payment was made through contractor and Worked for SECL Company.								
		As casual maz. 1983	1984	1984	1985	1986	1987	1988	1989	1990	1991	1992 (June)
1	Mathuralal	251	50 + =252	202	285	255	276	288	294	245	302	137
2	Puniram	260	48 + =259	211	291	286	316	301	299	301	319	154
3	Rampal	244	45 + =149	104	248	263	252	285	253	249	286	142
4	Mohan	243	40 + =150	110	230	249	242	255	241	305	304	146
5	S. Tigga	—	—	—	20	243	253	298	282	311	313	126
6	Dharam Rao	—	—	—	—	—	—	—	243	262	310	164

It is further alleged that the above workmen were directly engaged by the principal employer, SECL Korba (East) for permanent nature of work of water supply (Filter Plant), Korba. It was decided by the management that the persons whose names are continuously on any post for six months or more, should be deemed to be regular workers, although they need not necessarily be permanent workers. It was also agreed that on being regularized, the casual workers will get wages of Category in which they are regularized. It was also agreed that w.e.f. 1-12-1969 casual workers employed in the colliery would get Minimum Wages recommended by the Coal Wage Board or the wage applicable to categories in which they are employed on work, other than colliery work will get Minimum Wages recommended by the Coal Wage Board or the wage applicable to categories in which they are employed on work, other than colliery work will get Minimum Wages applicable for the job of work they are employed. It was also decided that the casual and badli workers should put in 240/190 days attendance in a calendar year (depending on whether they are surface or UG workers) will be entitled to sick leave.

The Union further alleged that S/Shri Mathura Lal, Puniram, Rampal and Mohan were legally entitled to be regularized as permanent workers and in the scale of General Mazdoor Cat. 1. After completion of six months they were also entitled to get minimum wages of General Mazdoor Cat. 1 from 1-7-1983 after their regularization. They were also entitled to get benefits of sick leave as per circular but

the management intentionally and knowingly did not regularized the above workmen as General Mazdoor Cat. 1 and even did not give benefit of sick leave. The workmen were paid rates of casual labour which was fixed hardly 1/5th of the wages of permanent General Cat. 1. Thus, the workmen were deprived of their legal rights and dues. Since March, 1984 the management ceased them to be casual. The management instead put them under contractor. Their nature of work as originally engaged by the management were the same after putting them under the contractor. Only the difference was to make the worker's payment through contractor instead of making them payment from the counters on the company's rolls. The management engaged Shri S. Tigga in Jan. 1985 and Shri Dharam Rao in Jan. 1989 alongwith other four persons and they have also been continuously working till date and have been put under the contractor only for disbursement of payment. The nature of the work of these workmen were the same as regular/permanent workers of the water supply (Filter Plant). The workmen are working for 8 hours along with the regular workers and doing regular jobs of the plant. There is no contract job at water supply (Filter Plant). It is also alleged that the Foreman In charge of the water supply (Filter Plant) marks daily attendance of the workmen and maintain records, distribute jobs and controls the workmen and the workmen are under the supervision of Foreman In charge. The contractor is only utilized by the management to receive cheques against the total earned wages of the workmen from the management and to disburse the payment to the

workmen after deducting necessary fixed commission from him. In the circumstances, the workmen are of the workmen of principal employer of SECL, Korba and not of the contractor. All these workmen are eligible for regularization in the lowest category i.e. General Mazdoor Cat. I of NCWA from the date they have completed six months of their continuous work and accordingly, they are eligible for grant of earned leave, sick leave, 10% attendance bonus and other benefits.

The Union has prayed to the Court to order for regularization of the workmen from the date they have actually completed six months of continuous service as General Mazdoor Cat. I. It has further been prayed to the Court to order for payment of difference of wages and other subsequential benefits.

The management has filed Written Statement denying the claim of the Union. The management has specifically denied that S/Shri Mathura Lal, Puniram, Rampal, Mohan, S. Tigga and Dharma Rao have been continuously working at main water supply (filter Plant) of Civil Deptt. Korha (East) of SECL. The management has also denied that these workmen are under the direct supervision and control of company management. It is submitted by the management that the workers have been engaged by the contractors to whom misc. jobs of roaming the silt, making approach channel for new raw water pump, surface dressing of the ground including removing regetation and carriage of cement stone blocks etc. of the Filter Plant. Misc. Jobs of such nature is granted by SECL on contract to the contractors. Instead of such misc works, the work order is issued by SECL which is for a specific job and of specific duration. The contractor is required to complete the work within the stipulated time and there is no continuity in the job. The job is specific and temporary in nature. The workers are not at all employees of SECL. They work under the supervision and control of the contractor and not under the supervision and control of SECL. The salary is paid to the workmen by the contractor. The management has also denied that these workers were engaged for permanent nature of work of water supply (Filter Plant), Korba. It has also been denied that the workmen S/Shri Mathuralal, Puniram, Rampal and Mohan were employed as casual mazdoors in the beginning of 1983 up to last of Feb. 1984 for a period of 14 months. There is no privity of contract of employment between the workmen and SECL. So far as circular mentioned by the Union in Para 4 of their Statement of Claim, the management has clarified that the same is applicable only in case of NCDC and does not apply to the employees of SECL. Since the workers are not the employees of SECL the circular is not applicable. It is further alleged that detailed and exhaustive procedure is laid down for recruitment in SECL. The vacancies are notified. The names of the candidates are sponsored by the Employment Exchange and considered by the Committee consisting of the representative of State Govt. and the SECL. Even casual labours are also employed through Employment

Exchange against the permanent vacancies and only after following the above procedure person is appointed on the rolls of the company. The management has denied that the workers are entitled to be regularized as permanent workers. They have also denied that the workers are entitled to get minimum wages of General Mazdoor Cat I from July, 1983 after regularization. The management has denied that the workmen are entitled to any benefit as claimed by the union. The management has also denied that Shri S. Tigga was engaged in Jan., 1985 and Dharma Rao in Jan., 1989 along with four other workmen and they have been continuously working till date and have been put under the contractor only for disbursing payment. These two persons were never the employees of SECL. The management has denied that nature of work performed by these workers is similar to that of permanent workers of water supply (Filter Plant). The management has specifically pleaded that the Foreman In charge (Filter Plant) is not marking daily attendance of the workmen as alleged by the Union. The management has stated that the Foreman Incharge is not maintaining records or distributing jobs or controls the workmen and neither the Foreman Incharge supervise the work or makes payment. It is stated that once the work order is issued to the contractor, it is the responsibility to see that the work is carried out according to the specification and the management of SECL has no role to play in the working of the workmen. There is also no contract job on water supply (Filter Plant) which is required to be performed by the contractor and contractual labours.

S/Shri Dharma Rao, S. Tigga, Mohan, Rampal and Puniram have filed affidavits.

The management moved an application on 24-1-1995 requesting that the contractors namely S/Shri Ajay Chatterjee, Ramjee Prasad and Govind Singh be impleaded as parties to the dispute as the contract was awarded to the contractors after following due procedure. On 5-4-1995 the Presiding Officer ordered for issuance of notices to the contractors. Thereafter Shri Govind Singh, Civil Contractor filed an application before the court mentioning that he has engaged the workers on daily rate basis. He has also mentioned specific misc. works in his application.

The management has filed the following documents :

1. Work awarded to Shri Govind Singh, contractor vide orders dtd. 6-6-1992 and 6-8-1992.
2. The work awarded to Shri Ramjee Pd., contractor vide order dtd. 15-3-1990.
3. The work awarded to Shri Ajay Chatterjee, contractor vide order dtd. 18-1-1989.
4. The work awarded to Shri Mahboob Alam, Contractor vide order dtd. 27-9-1989.

The management has filed all the documents pertaining to the contract which are the papers No. 16/2 to 16/79. The documents were filed on 9-5-1996. Thereafter the Union representatives started absents from the Court.



The Presiding Officer on 5-1-2004 ordered the issuance of notice to the union. The notice was issued on 14-1-2004. The notice did not come unserved, therefore, on 3-2-2004 the Presiding Officer ordered the case proceeding Ex-parte against the Union.

On 9-5-2004 the management was directed to file evidence by way of affidavit and the management complied with the order and filed the affidavit which is on record i.e. Paper No. 18.

I have heard the learned representative of the management and perused the evidence on record. It is noteworthy that the union or its representative did not turn up even on the date fixed for argument.

The Union has tried to allege that the following workers worked for the period mentioned against them.

S. No.	Name of Workers	Period	No. of Days worked
01	Sri Mathura Lal	1983-84	252 days
02	Sri Puniram	1983-84	259 days
03	Sri Rampal	1983-84	149 days
04	Sri Mohan	1983-84	150 days

The Union tried to put the case that the above four workers were casual mazdoors under the contract supervised and controlled by the management. Whereas the management denied this factor.

The Union through the affidavit dtd. 24-1-1995 tried to prove that Shri Mohan was employed by the management in the year 1983 but the affidavit filed by the union is not duly sworn in before Oath Commissioner and Shri Mohan did not turn up for cross examination by the management and, therefore, affidavit paper No. 9 is of no help to the Union.

Similarly, the Union filed an affidavit of Shri Rampal, which was not attested by the Oath Commissioner nor Shri Rampal turn up for cross-examination by the management, and therefore, the affidavit of Shri Rampal is of no help to the Union. The affidavit of Shri Puniram also does not help for the same reason. The management by its affidavit paper No. 18 has proved that the claimants were never directly engaged by SECL for doing permanent and perennial nature of water supply work (Filter Plant), Korba.

The learned representative of the management has argued that it seems that the claimant might have been engaged by the contractors who were awarded various contracts for the execution of the work awarded to them. The management has further proved by the affidavit that the employees employed by the contractors are not the employees of SECL. The contract labours work under the control and supervision of contractors and wages are paid by the contractors. The management has categorically

proved that the claimants were never employed as casual labours in 1983 or 1984.

The management of SECL never engaged the workers as alleged by the union in any of the mining activities of the management.

The learned representative for the management has argued that the management has filed documents in respect of the work awarded to the contractors S/ Shri Ajay Chatterjee, Ramjee Prasad and Govind Singh etc. The details of the work awarded to contractors have also been proved by the management by way of affidavit.

On going through the claim petition of the union, admittedly the workmen were not engaged by SECL from 1985 onwards till 1992. From the claim statement of the union, it is made out that all the workers were employed since 1985 to 1992 by the contractors and not by SECL. Unless and until the union does not prove that these workers were working under the direct control and supervision of the management it could not be held that these working were employees of the management.

There is no privity of contract between the management and the workmen referred above. The Union utterly failed to prove that all the workmen were engaged as casual labour by the management.

Under the circumstances, I come to conclusion that none of the workers mentioned in the claim statement were in the employment of SECL and therefore, there is no question of regularization of their employment. The issue is, therefore, answered accordingly.

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 27 जुलाई, 2004

का. आ. 2066.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.ई.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./231/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-07-2004 को प्राप्त हुआ था।

[सं. एल-22012/325/90-आई आर (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 27th July, 2004

S.O. 2066.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/231/94) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of SECL and their workman,

which was received by the Central Government on 27-7-2004.

[No. L-22012/325/90-IR(C-II)]

N.P. KESAVAN, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR CASE NO. CGIT/LC/R/231/94

SHRIKANT SHUKLA, Presiding Officer

Sub Area Manager,  
SECL, Kusmunda Project,  
PO: Kusmunda Project,  
Dist : Bilaspur, at present Korba(CG)

AND

Branch Secretary, RKKMS (INTUC)  
Block-15, Quarter No. G-64, SECL,  
Post : Korba Colliery, Dist : Bilaspur  
At present Korba (CG).

#### AWARD

Government of India, Ministry of Labour vide its order No. L-22012/325/90 (IR) (C. II) dtd. 09-12-1994 referred the following issues for adjudication :—

“Whether the action of the Management of Kusmunda Colliery of SECL in denying to change the date of birth of Shri Swarna Singh, Mechanical fitter, from 30th December, 1926 to 16th August, 1931 is legally justified? If not, what relief the concerned workman is entitled to.”

The Secretary, RKKMS (INTUC), Korba, filed the statement of claim with the allegation that Shri Swarna Singh was originally appointed as Tyndle Mazdoor at Ex-NCDC, Surakachhar Colliery, w.e.f. 16-08-1963. The date of birth of the workman was recorded as 16-08-1931 in the Medical certificate issued by the colliery Doctor, as per statement given by the workman on the basis of his School Leaving Certificate. Accordingly, the date of birth of the workman was recorded in the original Form-B Register of the year 1963 of Surakachhar Colliery. The workman was transferred to SECL, Kusmunda Project in the year 1970. After a gap of long time the worker came to know that his date of birth has been wrongly recorded as 30-12-1926 in his service book. The workman concerned thereafter submitted his representation for correction of his date of birth as 16-08-1931 as per form-B register of the year 1963. The workman also pointed out that the Service Book originally prepared at Surakachhar Colliery in the year 1963

might have missing, and hence other bogus Service Book have been sent to Kusmunda Project by Surakachhar Colliery Management. The Management of Kusmunda Project did not care to consider the representation of the concerned workman for rectifying his date of birth. Lastly, the Management illegally retired the workman from his service w.e.f. 30-12-1986 on attaining the age of superannuation i.e. 60 years. The action of the Management of Kusmunda Project in retiring the workman on 30-12-1986 was illegal and violation of the “principles of Natural Justice”. The Union Secretary has, therefore, prayed that the date of birth of the workman recorded in Original Form-B Register of Surakachhar Colliery be taken as authentic and real and accordingly, his date of retirement may be taken as 16-08-1991. It has further been prayed that the workman may be paid all full back wages and other allowances and consequential benefits and compound interest for the whole period of his illegal retirement.

The Management denied the claim of the Union. The management has not disputed the initial appointment of the worker Shri Swarna Singh at Surakachhar Colliery but, at the same time, it has been alleged by the Management that the date of birth of Shri Swarna Singh was recorded in the Service Register as 30-12-1926. The transfer of the worker from Surakachhar to Kusmunda Project is admitted but it is alleged that on the basis of date of birth in the Service Register, the worker was retired from the service w.e.f. 30-12-1986. It is further alleged that it is only after the retirement of the worker, he has submitted a School Transfer Certificate from the Head Master, Jharia Colliery, Jharia, Dhanbad, issued on 23-03-1987. In the said Certificate it is shown that Shri Swarna Singh was studying in Class-V and left the School in the year 1940. The school Leaving Certificate submitted by Shri Swarna Singh did not inspire confidence.

The management has stated that there are procedure for determination of the age of the employee and according to procedure laid down the age of the employee was finalised at 19th meeting of Joint Bipartite Committee for Coal Industry vide I.I. No.37. The procedure for review/determination of date of birth in respect of existing employees as per the above Implementation Instruction is as follows:—

- “(i) (a) Wherever there is no variation in records, such cases will not be reopened unless there is a very glaring and apparent wrong entry brought to the notice of the management. The management after being satisfied on the merits of the case will take appropriate action for correction through age determination Committee/Medical Board.
- (b) Wherever there are variations, a suitable provision for age determination Committee/Medical Boards would be made.

- (ii) Age Determination Committee/Medical Board for the above will be constituted by the Management.
- (iii) For determination of the age, the Committee referred to above may consider the evidence available with the Colliery Management and/or adduced before it by the employee.
- (iv) Age so assessed by the committee shall be communicated by the management to the employee concerned and also to the Unit from where reference was received, for further necessary action.
- (v) The decision of the Committee will be binding and final.
- (vi) The above procedure will come into force with immediate effect and will supersede the existing procedure/orders, if any, in this subjects."

The Management has further alleged that the apparent wrong entry regarding date of birth was never brought to the notice of the management and at this belated stage, the workman is not entitled for getting his date of birth corrected after his retirement. So far as the School Leaving certificate is concerned, the Management has alleged that according to the records the workman came into employment in the year 1963 whereas the so called Certificate indicates his study in the year 1940 but the School Leaving Certificate is concerned, the Management has alleged that according to the records the workman came into employment in the year 1963 whereas the so called Certificate indicates his study in the year 1940 but the School Leaving Certificate was issued in the year 1987. The Certificate was obtained after he retired from service with a view to have longer period of service and therefore, the School Leaving Certificate is not authentic. So far as the allegation of the worker regarding the issuance of medical certificate by the Colliery Doctor is concerned, the management has stated that the School Leaving Certificate was issued in the year 1987 and the Doctor of the Colliery had no business or opportunity to see the School Leaving Certificate. The Medical Officer can not on the basis of School Leaving Certificate decide the age of the workman unless he medically examines the workman.

The management has also denied that the date of birth recorded as 16-08-1931 in the Form-B Register, maintained at Surakachhar Colliery for the year 1963. The allegation of the date of transfer of the workman has also been denied by the management and has stated that the workman has been transferred to Kusmunda Colliery of 23-12-1980 and not in the year 1970. Accordingly the worker was legally and rightly retired on attaining the age of 60 years according to date of birth recorded.

The management has filed the photostat copy of the Service Register of Shri Swarna Singh which bears the column of date of birth mentioning 30-12-1926 (Paper No. 6/2), the photostat copy of T.C. is dated 23-03-1987 and copy of B-Form Register indicates his date of birth as 30-12-1926.

The union did not produce any evidence in support of their case, Therefore, this Tribunal given decision ex-parte against the workman.

The management has filed affidavit of Shri Jose Mathew, Sr. PO of Kusmunda Area alongwith copy of letter of Personnel Officer, Surakachhar Colliery dated 26-12-1986, letter of Mr. PK Das, SAM, Kusmunda addressed to Shri Swarna Singh, regarding retirement of Shri Swarna Singh.

Nobody is appearing on behalf of the worker, therefore, heard Sr. Law Officer of the Management and perused the record.

It is note worthy that the Union is its submission of claim para-4 has alleged that after a long gap of time the workman came to know that his date of birth has wrongly been recorded in his Service Book. The workman thereafter submitted his representation. Interestingly, the union has concealed the date of representation as to when he represented to the management about the correction of the date of birth. Had he ever represented to the management during the service period, the union must have mentioned the date of such representation.

The workman retired on 30-12-1986 but no action was taken by him to get his date of birth corrected before his retirement.

The Union, though, has alleged in Para-2 of the statemnt of claim "that the date of the workman was recorded as 16-08-1931 in medical certificate, by the colliery Doctor, as per statemnt given by the workman on the basis of his School Leaving Cetificate. On the basis of the same, the date of birth of the workman was recorded and the same i.e. 16-08-1931 (32 years) in original Form-B Register of the year 1963 of Surakachhar Colliery. The Form-B Register is maintained under Mines Act, 1952.

From the perusal of the evidence, it is evident that the School Leaving Certificate was issued on 23-03-1987 and therefore, there was no reason to make the same as basis of ascertaining the date of birth. The date of medical certificate, the name of the Doctor etc has not been pointed out as to who was the Medical Officer, who gave the Certificate without medically examining the worker. The Medical Jurisprudence prescribes various modes for ascertaining the age of the person. The Medical Officer can not issue the Certificate about the date of birth on the basis of mere statement of a workman. The Medical Officer has to examine whether of not the statement given by the workman is correct. The Sr. law Officer of the management has argued that in case the union gave the name of the

Medical Officer he could have questioned that Medical Officer the circumstances in which he had issued such medical certificate. But the Union has concealed the relevant facts.

The learned Counsel of the management has also argued that if the worker's age was 16-08-1931 then how the worker's date of birth is mentioned as 4th of January, 1931. Sr. law Officer pointed out that the certificate produced by the worker is in conflict with the statement of claim filed by the Union. This goes to show that the T.C. has been procured with ulterior motive. Lastly, the management has argued that the union has not alleged any motive as to why the management will alter his date of birth unless somebody pay to him.

The Learned representative of the Management has argued that the Hon'ble Supreme Court of India has discouraged such claims about the correction of date of birth when the same is raised after his retirement. He has relied upon ILLJ 1997 page-206 between State of Orissa and others-Vs- Ramnath Patnalk. I have gone through he case law mentioned above. The Hon'ble Supreme Court of India has ruled that when no attempt was made by the Government Servant during his service to have the record corrected, any amount of evidence produced subsequently would be of no avail. This case law also helps the management.

On consideration of all material on record, I come to the conclusion that the worker's date of birth is not 16-08-31, as alleged in the statement of claim. The Management has rightly disbelieved the School Leaving Certificate produced by the workman. On the other hand the workman himself was not produced by the Union to establish that his date of birth was 16-08-1931. The Management of Kusmunda Colliery, therefore, rightly denied to change the date of birth of Shri Swarna Singh. The issue, therefore, is decided in affirmative and I come to the conclusion that the Union of the workman is not entitled to any relief whatsoever.

SHRIKANT SHUKLA, Presiding Officer

Below :

Date : 28-05-2004

नई दिल्ली, 27 जुलाई, 2004

का.आ. 2067.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, आई. आई. पी. आर. प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर (संदर्भ संख्या 13/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2004 को प्राप्त हुआ था।

[सं० एल-42012/37/2000-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 27th July, 2004

S.O. 2067.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 13/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Institute of Pulses Research and their workman, which was received by the Central Government on 27-7-2004.

[No. L-42012/37/2000-IR (C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

BEFORE SHRI SURESH CHANDRA, H. J. S.  
PRESIDING OFFICER CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

117/9 Hotel Kishoree Building, Sarvodaya Nagar,  
Kanpur, U. P.

Industrial Dispute No. 13 of 2001

In the matter of dispute between :—

Smt. Uma Kanti

Through Rajendra Prasad  
Bhartiya Gramin Mazdoor Sangh  
115/193 A-2, Maswanpur  
Kanpur.

AND

The Director,  
Indian Institute of Pulses Research  
Kanpur G. T. Road,  
Kanpur.

#### AWARD

1. Central Government Ministry of Labour, New Delhi, vide its Notification No. L-42012/37/2000 (IR-C-II) dated 4-7-2001, has referred the following dispute to this tribunal for adjudication :—

“क्या डायरेक्टर, इण्डियन इन्स्टीट्यूट ऑफ पलसेस रिसर्च कानपुर द्वारा श्रीमती उमा कान्ती, मजदूर का दिनांक मार्च, 1999 से नौकरी से निष्काशित करना न्यायोचित है ? यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है ?”

2. In the instant case the workman was debarred from adducing his evidence on 2-9-2004 and the case was listed on 13-1-2004 for evidence of management. On the said date of hearing the workman moved an application for recalling order dated 2-9-2004 which was rejected by the tribunal for want of sufficient grounds. Management also informed the tribunal that they too does not want to adduce the evidence hence the case was fixe for argument. When the case was taken up for hearing of arguments on 29-6-2004, none appeared from the side of the workman. Thus it appears that neither the workman nor his representative is interested in prosecuting the case any more. In the circumstances of the case, the tribunal is left with no other option but to hold that the workman is not entitled to any relief pursuant to the present reference for want of evidence.

3. In the end it is therefore held that the claim of the workman fails for want of evidence and proof and the workman is held not entitled to any relief pursuant to the present reference order.

4. Reference is answered accordingly negative against the workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 27 जुलाई, 2004

का.आ. 2068.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, आई. आई. पी. आर. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर (संदर्भ संख्या 12/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2004 को प्राप्त हुआ था।

[सं० एल-42012/40/2000-आई आर (सी-11)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 27th July, 2004

S.O. 2068.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Institute of Pulses Research and their workman, which was received by the Central Government on 27-7-2004.

[No. L-42012/40/2000-IR (C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

BEFORE SHRI SURESH CHANDRA, H. J. S.  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
117/9 Hotel Kishoree Building, Sarvodaya Nagar,  
Kanpur, U.P.

Industrial Dispute No. 12 of 2001

In the matter of dispute between :—

Narendra Kumar

Through Rajendra Prasad

Bhartiya Gramin Mazdoor Sangh

115/193 A-2, Maswanpur

Kanpur.

and

The Director,

Indian Institute of Pulses Research

Kanpur G. T. Road,

Kanpur.

#### AWARD

1. Central Government Ministry of Labour, New Delhi,  
vide its Notification No. L-42012/40/2000 (IR-C-II) dated

22-6-2001, has referred the following dispute to this Tribunal for adjudication :—

“क्या डायरेक्टर, इण्डियन इन्स्टीट्यूट ऑफ पलसेस रिसर्च कानपुर द्वारा श्री नरेन्द्र कुमार पुत्र श्री नन्द कुमार मिश्रा को दिनांक 28-6-1999 से नौकरी से निष्कासित करना न्यायोचित है? यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है?”

2. In the instant case the workman was debarred from adducing his evidence on 2-9-2004 and the case was listed on 13-1-2004 for evidence of management. On the said date of hearing the workman moved an application for recalling order dated 2-9-2004 which was rejected by the tribunal for want of sufficient grounds. Management also informed the tribunal that they too does not want to adduce the evidence hence the case was fixed for argument. When the case was taken up for hearing of arguments on 29-6-2004, none appeared from the side of the workman. Thus it appears that neither the workman nor his representative is interested in prosecuting the case any more. In the circumstances of the case, the tribunal is left with no other option but to hold that the workman is not entitled to any relief pursuant to the present reference for want of evidence.

3. In the end it is therefore held that the claim of the workman fails for want of evidence and proof and the workman is held not entitled to any relief pursuant to the present reference order.

4. Reference is answered accordingly negative against the workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 27 जुलाई, 2004

का.आ. 2069.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, आई. आई. पी. आर. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर (संदर्भ संख्या 9/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-7-2004 को प्राप्त हुआ था।

[सं० एल-42012/36/2000-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 27th July, 2004

S.O. 2069.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Institute of Pulses Research and their workman, which was received by the Central Government on 27-7-2004.

[No. L-42012/36/2000-IR (C-II)]

N. P. KESAVAN, Desk Officer

## ANNEXURE

**BEFORE SHRI SURESH CHANDRA, H. J. S.  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT**

117/9 Hotel Kishoree Building, Sarvodaya Nagar,  
Kanpur, U.P.

Industrial Dispute No. 9 of 2001

In the matter of dispute between :—

Shri Suraj Bhan

Through Rajendra Prasad  
Bhartiya Gramin Mazdoor Sangh  
115/193 A-2, Maswanpur  
Kanpur.

and

The Director,  
Indian Institute of Pulses Research  
Kanpur G. T. Road,  
Kanpur.

## AWARD

1. Central Government Ministry of Labour, New Delhi, vide its Notification No. L-42012/36/2000 (IR-C-II) dated 25-6-2001, has referred the following dispute to this tribunal for adjudication :—

“क्या डायरेक्टर, इण्डियन इन्स्टीट्यूट ऑफ पलसेस रिसर्च कानपुर द्वारा श्री सूरज भान मजदूर का दिनांक 24-8-1999 से नौकरी से निष्कासित करना न्यायोचित है ? यदि नहीं तो संबंधित कर्मकार किस अनुलोष का हकदार है ?”

2. In the instant case the workman was debarred from adducing his evidence on 2-9-2004 and the case was listed on 13-1-2004 for evidence of management. On the said date of hearing the workman moved an application for recalling order dated 2-9-2004 which was rejected by the tribunal for want of sufficient grounds. Management also informed the tribunal that they too does not want to adduce the evidence hence the case was fixed for argument. When the case was taken up for hearing of arguments on 29-6-2004, none appeared from the side of the workman. Thus it appears that neither the workman nor his representative is interested in prosecuting the case any more. In the circumstances of the case, the tribunal is left with no other option but to hold that the workman is not entitled to any relief pursuant to the present reference for want of evidence.

3. In the end it is therefore held that the claim of the workman fails for want of evidence and proof and the workman is held not entitled to any relief pursuant to the present reference order.

4. Reference is answered accordingly negative against workman.

: SURESH CHANDRA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 2070.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली स्टेट मिनरल डवलपमेंट कार्पो. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली-II पंचाट (संदर्भ संख्या 30/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-2004 को प्राप्त हुआ था।

[सं० एल-29012/58/94-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 2070.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/95) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Delhi State Mineral Dev. Corpn. Ltd. and their workman, which was received by the Central Government on 28-7-2004.

[No. L-29012/58/94-IR (M)]

B. M. DAVID, Under Secy.

## ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT-II**

**RAJENDRA BHAWAN, GROUND FLOOR,  
RAJENDRA PLACE, NEW DELHI**

Presiding Officer : R. N. RAI.

I. D. No. 30/95

In the Matter of :—

Smt. Madhuri

Versus

Delhi State Mineral Development Corporation Ltd.

## AWARD

The Ministry of Labour by its letter No. L-29012/58/94/IR (Vividh) Central Government dt. 14-2-95 has referred, the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of M/s. Delhi State Mineral Development Corporation Ltd. in terminating the services of Smt. Madhuri w.e.f. 30-6-1993 is justified? If not, to what relief the concerned workman is entitled?”

The claimant has filed statement of claim, In the statement of claim, it has been stated that she was appointed on 12-9-1989 on allegedly purely temporary and adhoc basis. She worked for the whole day. Her services were terminated on 30th June, 1993 by the Assistant

2433 AF/04-19



Manager. She was appointed by the Manager and Assistant Manager has no right to terminate her services. Her job was of a permanent nature. The termination of her service is illegal arbitrary and against principles of natural justice.

In the statement of claim some citations have been referred to just as Jaswant Sugar Mills Vs. Badri Prasad, 1961 (1) L.L.J. Sone Valley Portland Cement Co. Ltd. Vs. Its workman in 1962 (1) L.L.J. at page No. 218, Hindustan Lever Ltd. Vs their workman. 1974 (1) L.L.J. at page No. 94. It has been further asserted that in view of these citations, her service could not be terminated. She has prayed that she should be reinstated with full back wages.

The management has filed written statement. In the written statement, it has been stated that this Tribunal has no jurisdiction as she was an employee of Delhi State Mineral Development Corporation Ltd. So State Labour Court has got jurisdiction. It has been further stated that she was appointed on purely adhoc basis and the services of an adhoc employee can be terminated when the work is finished.

Heard arguments from both the sides and perused the papers on the record.

From appointment letter it is quite explicit that her appointment was adhoc. It was submitted from the side of the workman that she worked for a very long period, so her services should be regularised. She was engaged on permanent job. The citations referred to in the statement of claim are not applicable in the fact and circumstances of the case. The list of adhoc employees have been annexed with the record as Annexure 'B'. In this annexure the name of Sh. Sunil Kumar, the Assistant Store Keeper and Mrs. Madhuri have been mentioned on S. No. 3 and 4. Sunil Kumar Singh and others have filed writ in the Hon'ble High Court of Delhi at New Delhi but the same was dismissed as these workman were held to be temporary adhoc employees. As such where there is an adjudication of the Hon'ble High Court regarding the same employees and the same has been dismissed. So there is no force in this case also. In case, there is direct adjudication of the Hon'ble Delhi High Court regarding the employees of the same nature, that judgment will prevail and no other citation will be of any merit. As the citations referred to relate to different circumstances and there is the direct judgement of the Hon'ble Delhi High Court on the same point which is at issue in this case also, there is no force in the argument from the side of the workman.

Secondly, the workman is an employee of the Delhi State Mineral Development Corporation Ltd., so this Tribunal has got no jurisdiction. As such the case fails on both the counts, she was a workman of Delhi State Mineral Development Corporation Ltd. and she was and adhoc employee the services of the purely adhoc employee can not be regularised. The workman does not deserve to get any relief as prayed for.

The reference is replied thus :—

The action of the management of M/s. Delhi State Mineral Development Corporation Ltd. in terminating the services of Smt. Madhuri w.e.f. 30-6-93 is justified.

The award is given accordingly.

Dt. 21-7-2004

R. N. RAI, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 2071.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एन. एल. सी. एल. प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई (संदर्भ संख्या 304/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-2004 को प्राप्त हुआ था।

[सं० एल-22012/65/2003-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 28th July, 2004

S.O. 2071.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 304/2004 of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Neyveli Lignite Corporation Limited, and their workman, received by the Central Government on 28-7-2004.

[No. L-22012/65/2003-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
CHENNAI**

Thursday, the 17th June, 2004

Present : K. JAYARAMAN,  
Presiding Officer

Industrial Dispute No. 304/2004

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their workmen).

**BETWEEN:**

The General Secretary, : I Party/Claimant  
NLC Oruginanintha Oppantha  
Thozhilalar Sangam,  
Neyveli.

**AND**

The Director (Personnel), : II Party/Management  
Neyveli Lignite Corporation Ltd.  
Neyveli.



**APPEARANCE:**

For the Claimant : None  
 For the Management : M/s N. A. Sarma, Sathya  
 Rao, N. Nithianandam,  
 Advocates.

**AWARD**

The Central Government, Ministry of Labour vide Notification Order No. L-22012/65/2003-IR(CM-II) dated 30-1-2004 has referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the demand of NLC Oruginaindha OppandhaThozhilalar Sangam (LLF ‘C’) for equal raise in the wages of the contract workman on par with the NLC Indcoserve Society Contract Workmen is legal and justified? If so, to what relief the workmen are entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 304/2004 and notices were issued to both the parties. The I Party even though received the notice, has not appeared before this Tribunal. On behalf of the II Party, counsel on record for the II Party appeared before this Tribunal and filed statement of objection. Even after the 2nd notice, the I Party has not appeared before this Tribunal and there was no representation on behalf of the I Party.

3. In the Statement of Objection, filed by the II Party, it is contended that the I Party Union has not filed any claim statement in support of their case and have chosen no to pursue the matter before this Tribunal by not appearing. In any event, the I Party has no locus standi to maintain the dispute as they have no membership comprising of any contractor's workmen deployed to work in the Corporation. The dispute referred the adjudication pre-supposes that the supposed contract workmen whose cause is being espoused by the I Party/Union are indentically or at least similarly placed as the member workmen of INDCOSERVE. But the I Party Union has not produced any material to substantiate such proposition. Further, the INDCOSERVE society workers deputed to work in the units of the corporation by INDCOSERVE are neither contract labour covered under Section 2 (b) of Contract Labour (Regulation & Abolition) Act, 1970 nor the INDCOSERVE society, a contractor within the meaning of Section 2(c) of the Act, 1970. Without prejudice even if it is assumed for argument sake without conceding that INDCOSERVE is a contractor and INDCOSERVE workers deployed to work in the unit of II Party/Management are contract workers, INDCOSERVE is supplying only labour to the II Party/Management for which wages to the workers so deployed and a percentage of wages as administrative charges are paid to INDCOSERVE by the II Party/Management based on bills raised by INDCOSERVE whereas in the case of private contractors, they have been given only piece rate contracts which are known as work contracts for which tenders are floated and ordinarily the

lowest bidder is awarded the contract. In such contracts, completion of tendered work sectionally or in full is the only criterion for effecting payments to the contractors concerned subject to the terms of the contract and it is the contractor's liability to pay the wages to their men deployed by them to execute the tendered work and the II Party/Management has no say in respect of the amount of wages paid to such works contract workers, other than ensuring that they are paid not less than the prescribed minimum rates of wages applicable. Therefore, there is no question of increasing the wages to contract workers of the works contract by the II Party/Management. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

4. In these circumstances, the points for my determination are—

- (i) “Whether the demand of the Petitioner Union for equal raise in the wages of the contract workmen on par with NLC INDCOSERVE Society Contract Workmen is legal and justified?”
- (ii) “To what relief the concerned workmen are entitled?”

Point No. 1 :—

5. In this case, though the Petitioner Union has raised the dispute with regard to contract workers, it has not appeared before this Tribunal to agitate the matter. As against this, the II Party/Management has filed statement of objection, wherein it is contended that the I Party Union has no locus standi to maintain the dispute as they have no membership comprising of any contractors' workmen deployed to work in the Corporation. Further, the II Party/Management contended that the I Party Union has not placed before this Court that the contract labourers are indentically or at least similarly placed as the member-workmen of INDCOSERVE. Under such circumstances, the claim of the Petitioner Union cannot be accepted. Further, the Respondent contended that the INDCOSERVE is not a contractor and the workmen under the society are not contract labourers and therefore the Petitioner's contention that the salary is to be raised as that of INDCOSERVE workmen is not applicable.

6. From the contention of the Respondent, it is clear that though the Petitioner wanted to raise the wages of contract workmen on par with the NLC INDCOSERVE Society, the Petitioner has not produced any document to show that they are similarly placed and they are entitled to get same wage as that of INDCOSERVE Society workmen. Under such circumstances, I am not inclined to give any relief to the Petitioner Union. Hence, this point is answered against the Petitioner.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

7. In view of my foregoing findings, I find the concerned workmen, whose cause the Petitioner Union, is espousing, are not entitled to any relief as prayed for.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th June, 2004.)

K. JAYARAMAN, Presiding Officer

**Witnesses Examined :**

On either side : None

**Documents Marked :**

On either side : Nil

नई दिल्ली, 28 जुलाई, 2004

का.आ. 2072.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय विद्यालय नम्बर 1 प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नम्बर 1, मुम्बई (संदर्भ संख्या सी.जी.आई.टी.-06/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-2004 को प्राप्त हुआ था।

[सं० एल-42012/125/2001-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 28th July, 2004

S.O. 2072.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. CGIT-06/2002 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Mumbai No. 1 as shown in the Annexure in the Industrial Dispute between the management of Kendriya Vidyalaya No. 1, and their workman, which was received by the Central Government on 28-7-2004.

[No. L-42012/125/2001-IR (C-II)]

N. P. KESAVAN, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1 MUMBAI**

**PRESENT:**

SHRI JUSTICE S.C. PANDEY, Presiding Officer

Reference No. CGIT-06/2002

**PARTIES:**

Employers in relation to the management of  
Kendriya Vidyalaya No. 1

And

Their Workmen

**Appearances:**

For the Management : Ms. Fernades, Adv.

For the Workman : Mr. Jaiprakash Sawant, Adv.

State : Maharashtra

Mumbai, dated the 24th day of June' 2004.

**AWARD**

1. This is a reference made by the Central Government under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act 1947 (the Act for short) for resolving the industrial dispute between Mohan K. Nair (the workman for short) and the Kendriya Vidyalaya No. 1 Deolali (the school for short). The terms of reference are as follows:

"Whether the action of the management of Kendriya Vidyalaya No. 1 Deolali in terminating the services of Mr. Mohan K. Nair, Lascar w.e.f. 13-12-1994 is legal and justified? If not, to what relief the workman concerned is entitled to?"

2. In the Statement of claim of the workman, it was stated that he employed as Group 'D' between March 1990 to December 1993. The workman was appointed as Lascar by the Principal of the school from 10-2-94. The workman worked till 12-12-1994. The workman worked till 12-12-94 from the date of his appointment. The workman's services were terminated in violation of Section 25-F of the Act. It was claimed that the workman be reinstated with back wages and consequential benefits.

3. The Statement made on behalf of the Kendriya Vidyalaya, it was stated in paragraph 5 as follows:

"With reference to paragraph 2 of the claim filed by the Workman, the management would like to submit that the Director General, N.C.C. is the Appointing Authority for N.C.C. Lascar. The Principals of Kendriya Vidyalaya are no more empowered to appoint N.C.C. Lascars in terms of Dte. General NCC letter No. 11721/DGNCC/Pers © dated 27-12-1988. In view of this, the appointment of Shri Mohan K. Nair as N.C.C. Lascar by Principal, Kendriya Vidyalaya, Deolali, Nasik is not in order".

4. The workman filed a rejoinder denying that the Principal, Kendriya Vidyalaya was not empowered to appoint Lascar was an after thought.

5. The workman filed his affidavit in lieu of examination in chief. He was cross-examined and discharged thereafter. The school filed the affidavits of Shri T.N. Satya Murthy, Shri C.P. Singh and Ramesh Khatri. All these witnesses were cross-examined by the counsel for the workman. Their case was closed.

6. It is clear from the statement Shri T.N. Satya Murthy in his affidavit that he adhered to the written statement filed by him. He stated the workman worked as Daily Wager between March, 1990 to December, 1993. It was claimed that the appointment of the workman 10-2-94 to 13-12-94 was irregular. The Kendriya Vidyalaya Sangathan is not responsible for the payment for the services of the workman. It appears a letter dt. 27th December 1988 was filed in support of his evidence. It appears

Mr. T.N. Satyamurthy had no knowledge about the workman. He did not try to find out from record at Deolali. In fact the evidence of Mr. C.P. Singh who as working as Vice Principal is important. He denied that the workman continuously worked for 240 days from March, 1990 to December, 1993. It was stated that workman was offered appointment of Lascar on 10-2-94 but he never worked as a Lascar because his appointment was not approved by the NCC. It was sought to be stated that workman was working as bearer in the army and was paid from Army Mess account. The order dated 13-12-1994, terminating the services of the workman was issued for putting end to the controversy. It as stated Mohan Nair never complained that he was not paid. However, in cross-examination the witness admitted that he had signed the letter dated 21-1-1994 and he had interviewed the workman for the post. He admitted that he had made endorsement on Exhibit W4 the application of the workman. He admitted that he had signed the order of appointment dated 10-2-94 was signed by him. (Exhibit W6). He also admitted that the services of the workman were terminated under his signature by Ex W7 dated 13-12-94. It was sought to be proved that the workman was employed Temple Hill Institute regularly between February 1994 to December, 1994. The witness Khatri who was examined to prove these facts shown Mohan Nair was appointed since 1981. He was paid Diwali Bonus of Rs. 448/- These documents of February, 1994 to July, 1994 that Nair was being paid salary. The witness states that Mohan Nair was serving at Night. The cross-examination shows that Temple Hill Institute is not run by the Govt. It appears to be club of Officers of the army. They give their subscriptions and the fund is formed by the fees. The workman himself stated that he was required to seek extra employment because he was not paid. Therefore, it is possible that workman was working in club at night. However, since he was not paid he had no option. The witness Khatri admitted the workman worked at night. He has filed Exhibit M1 to show that due to new assignement his wages to Rs. 167/- from Rs. 705/- In view of the aforesaid the evidence of C.P. Singh is disbelieved. The workman was appointed as Lascar of 10-12-1994. Ex/W6, the letter of appointment. He was offered appointment on 2-2-94 (Exhibit W5) after he applied for the post on 24-1-94 (Exhibit W4). This Court believes the evidence of Mr. M.K. Nair that workman worked against post till 13-12-1994 when he was dismissed. The workman was retrenched from service without payment of retrenchment compensation.

7. In the opinion of this Tribunal the Kendriya Vidyalaya Sangathan, cannot refuse to pay to the workman, the salary in the pay scale of Rs. 750-12-870-EB-14-940 as per Exhibit W5. The workman is entitled to that salary for the period he has worked i.e. between 10-2-1994 to 12-12-94 amounting to Rs. 7,500, at the rate of Rs. 750 per month. The workman has raised the dispute after considerable time of 13-2-94. Therefore, instead of granting

him relief of reinstatement it would be proper to grant him extra sum of equivalent to 5 years salary at rate of Rs. 750 per month amounting to Rs. 49,500/- Thus the total claim shall be Rs. 49,500 + Rs. 7,500 = Rs. 57,000.

8. The reference is answered by saying that the workman was retrenched without compensation. He is entitled to receive from Kendriya Vidyalaya No. 1, Deolali a sum of Rs. 57,000 by way of compensation and salary. No costs.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 2073.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ. सी. आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ (संदर्भ संख्या 89/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-2004 को प्राप्त हुआ था।

[ सं. एल.-22012/7/2002-आई. आर. (सी-II) ]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 28th July, 2004

S.O. 2073.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 89/2003 of the Central Govt. Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 28-7-2004.

[No. L-22012/7/2002-IR (C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CUM-LABOUR COURT, LUCKNOW

#### PRESENT:

SHRIKANT SHUKLA, PRESIDING OFFICER

L.D. No. 89/2003

Ref. No. L-22012/7/2002-IR (C-II) dt. 11-8-03

#### Between:

State Secretary, Bhartiya Khadya Nigam Karmchari Sangh, 5-6 Habibullah Estate, Hazratganj, Lucknow

#### AND

The Sr. Regional Manager, Food Corporation of India, 5-6 Habibullah Estate, Hazratganj, Lucknow

#### AWARD

The Government of India, Ministry of Labour vide their order No. L-22012/7/2002-IR(C-II) dated 11-8-2003 referred the following issue for adjudication;

"Whether the action of the management of Food Corporation of India in not Granting Stagnation Increment to Sri Chhotey Lal, TA-I w.e.f. 1991 is Legal and Justified ? If not, to what Relief the concerned workman is entitled ?"

The copy of order was endorsed to Sr. Regional Manager Food Corporation of India, Lucknow and State Secretary, Bhartiya Khadya Nigam Karmchari Sangh, Asstt. Labour Commissioner(C) Lucknow, besides Presiding officer CGIT-cum-Labour Court, Lucknow. It was clearly directed in the order of the reference that the parties raising the dispute shall file statement of claim complete with relevant documents. List of reliance and witnesses with the Tribunal within 15 days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in this dispute under rules 10(B) of the Industrial Disputes (Central) Rule, 1957.

The said order was received in this office on 22-9-03. The Court waited for the statement of claim till 24-10-2003, but when no one turned up and no statement of claim was filed therefore a order was passed for sending notice fixing 3-12-2003 for filing of statement of claim etc. Registered notice was issued vide receipt no. 20324 dated 30-10-03 on the date fixed for filing statement of claim. Nobody turned up and therefore the case taken up on 6-2-04. On the date so fixed Sri T. B. Singh appeared for the Karmchari Sangh and sought adjournment without filing any authority letter. Another date 19-3-04 was fixed on the said date also Sri T. B. Singh moved an application for adjournment without filing any authority letter from the Karmchari Sangh and therefore adjournment application was rejected, and the next date was fixed 26-5-04. It was also ordered that notice be also sent to the opposite party by registered post for filing their written statement in respect of issue on 26-5-04 was fixed for filing written statement. On 26-5-04 the opposite party moved application for adjournment without filing written statement and therefore 16-7-04 fixed for filing written statement.

On 16-7-04 Sri T. B. Singh filed authority letter A1-7 along with adjournment application D-8 and sought time for filing statement of claim. The representative of the opposite party stated on 16-7-04 that his written statement is ready but it will be proper if he looks into the statement of claim before filing the written statement. In the circumstances the Kesav Prasad was allowed to file statement of claim today i.e. 23-7-04.

Today on 23-7-04 the representative of the Karmchari Sangh has appeared and has stated that the stagnation increment has already been given and Karmchari Sangh does not want to file any statement of claim.

In the circumstances stated above Karmchari Sangh have not filed their statement of claim substantiating their claim that Chhotey Lal, TA-I entitled to grant of stagnation

increment and the management has illegally and unjustified manner has not granted the increment. In the above circumstances this court can not adjudicate the issue referred, accordingly no claim award is passed. 23-7-04

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 2074.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. सी. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या 4/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-7-2004 को प्राप्त हुआ था।

[सं. एल-22012/243/2000-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 28th July, 2004

S.O. 2074.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2002) of the Central Govt. Industrial-Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 28-7-2004.

[No. L-22012/43/2000-IR (C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

#### PRESENT:

SHRI E. ISMAIL, B.SC., LL.B, Presiding Officer

Dated, the 25th day of June, 2004

#### INDUSTRIAL DISPUTE NO. 4/2002

#### Between :

The Working President (Sh. K. Rajaiah)  
Singareni Collieries Labour Union (INTUC),  
Bellampalli-504251. ...Petitioner/Union

#### AND

The General Manager,  
M/s. Singareni Collieries Co. Ltd.,  
Bellampalli-504 251. ...Respondent/Management

#### APPEARANCES:

For the Petitioner : M/s. A.K. Jaya Prakash Rao,  
K. Srinivas Rao, P. Sudha,  
T. Bal Reddy, M. Govind,  
N. Sanjay & K. Ajay Kumar,  
Advocates.

For the Respondent : M/s. K. Srinivasa Murthy &  
C. Vijaya Shekar Reddy,  
Advocate.

**AWARD**

The Government of India, Ministry of Labour by its Order No. L-22012/243/2000-IR(C.II) dated 21-11-2001 referred the following dispute under Section 10(1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal between the employers in relation to the Management of M/s. Singareni Collieries Co. Ltd., and their workman.

**SCHEDULE**

“Whether the action of the management M/s. Singareni Collieries Co. Ltd., Bellampalli in denying annual increments to Sri Kalagura Thirupathi, Shot Firer, Grade-C for the period from 30-10-1984 to till date is justified or not? If not, to what relief the workman concerned is entitled to?”

This reference was registered as Industrial Dispute No. 4/2002 and notices were issued to the parties.

2. The brief facts as stated in the claim statement are: That the petitioner, shot firer Gr. C was appointed in the Company on 28-12-77. He was promoted to shot firer Gr. C from 1-8-80 as per office order No. PO.BPA/SF/4/23 dated 31-12-1980 with the basic pay of Rs. 659 in the grade of Rs. 572-29-804-34-1008. That, Sri Kalagura Thirupathi, was involved in serious Mine accident while on duty working at Mahavir Khani No. 1 incline, Bellampalli Area, on 6-1-84 and was under treatment upto 30-10-1984. He was made fit for his normal duties. But as the wounds and pain, even after made him fit for his normal duties, still exists and could not do underground, he requested the Management to consider his case on medical grounds to provide suitable surface job. The Management thus considered his request and provided him a job on surface i.e., as Chit Issuer and posted in Madaram Dispensary at Bellampalli Area as per office order No. P. BPA/138-B/221/4673 dt. 10-12-1985 in the grade of Rs. 625-23-947 i.e., on the reduced grade ‘E’.

3. That later subsequently he was fit physically by curing all his wounds and pains, requested the Management to give him his original job. Ultimately, considering his request, he was sent for medical examination and declared medically fit for Mining Sirdar job to work in Opencasts of the Company vide letter No. AHB/15/87/3784 dt. 7-11-87. Basing on his fitness, he was again transferred to work as shotfirer in Grade ‘C’ to perform statutory duties, at Goleti Opencast mine as per office order No. P. BPA/SF-OCF/154, dt. 18-1-1988. He was confirmed as shotfirer Grade ‘C’ as per office order dated 20-7-88 in the grade of Rs. 742-40-1062-45-1422. His basic pay was fixed at Rs. 1062 in the Grade ‘C’. That the basic pay prior to the date of the accident, i.e., prior to 6-1-84, is Rs. 1062 in the same Grade ‘C’, the same basic pay was fixed in 1988 also i.e., Rs. 1062.

4. That the Management had not given any annual increments to him since 1984 till date. His due date of

increment was 1st August of every year as per Company records. Accordingly, Sri Kalagura Thirupathi, Shotfirer Grade ‘C’ has to get his annual increments on and from 1-8-1984 to till date as under:

<u>Due date of annual Increment (on &amp; from)</u>	<u>Grade</u>	<u>Designation</u>
1-8-1984	Grade-C	As shotfirer at MVK-1 incline
1-8-1985	Grade-C	As shotfirer at MVK-1 incline
1-8-1986	Grade-E	As Chit Issuer at Madaram Dispensary
1-8-1987	Grade-E	As Chit Issuer at Madaram Dispensary
1-8-1988	Grade-C	As Shotfirer in Goleti Opencast Mine

And subsequent increments thereafter till date.

5. That it is very clear the Management’s action in not giving annual increments which are commonly and generally given every year from the due date of employee of the Company, is considered to be illegal and unfair. Under the circumstances and on the basis of supporting documents in the matter, the workman Sri Kalagura Thirupathi, is entitled for his usual increments right from his due date of 1-8-1984 to till date in the respective existing grades. Hence, it is prayed that to provide justice to the workman with all his annual increments from 1-8-1984 till date with fixation at the appropriate basic pay.

6. That the petition is not maintainable as similar relief was sought by the Petitioner in I.D.No. 78/1989 before the Industrial Tribunal at Hyderabad and the Hon’ble Tribunal was pleased to pass an Award dated 10-2-94 held that, “...Having not raised any dispute and he accepted the appointment and pay-fixation as specified in the office order, he cannot now agitate on the matter. From the above facts, I find there is some force in the contention of the Respondent Management that Sri K. Thirupathi was rightly posted as Chit Issuer in the grade of Rs. 625-23-947 fixing at an initial basic pay of Rs. 625 per month, once again on representation by the workman in dispute, the Management passed an order on 18-1-88 posting the workman in dispute from Chit Issuer, Madaram Dispensary to Shotfirer ‘C’ Grade at Goleti Opencast Mine since that day, again the workman in dispute was re-fixed into Shotfirer ‘C’ grade at Rs. 742 with an initial basic pay and that the workman in dispute cannot demand for annual increment and he is not entitled to the same number of increments in the lower grade (‘E’) as Chit Issuer which he was getting at the time of fixation of his basic pay in Grade ‘E’. In the result, he is not entitled to any relief. That the Petitioner cannot re-agitate the same matter as it is hit by principles of resjudicata. The previous reference in I.D. No. 78/1989 is,



'Whether the action of the Management of M/s. Singareni Collieries Co. Ltd., Bellampalli, in placing Sri K. Thirupathi, at the initial basic pay in Grade-E, without granting him 8 notional increments with effect from 9-5-1985 is justified? If not, to what relief the workman concerned is entitled?' Close reading says that both the reliefs are same. Hence, the petition is liable to be dismissed. That it is false allegation. That his basic pay was fixed at Rs. 1062. Hence, the petition may be dismissed.

7. The workman concerned examined Sri K. Rajaiah as WW1 who deposed that Sri K. Thirupathi, Shotfirer met with an accident on 6-1-84 while he was performing his duties. He took treatment at Singareni Collieries Hospital for 10 months. He became fit and joined duties on 30-10-84. His wounds are not completely cured and having pain and unable to perform his normal duties, he made an application to provide him suitable surface job. The Management considered and transferred him to Chit Issuer. Where he worked upto 1987. In the year 1987 he made an application for his original job. He was made medically fit vide Ex.W2 and provide him his original job vide Ex.W3. His basic pay was fixed @ Rs. 1062 per month. He was not given any annual increments between 1984 to 1988. That their union, has made representation for fixing the pay which is Ex.W4.

8. In the cross examination he deposed that as Vice President of the Union he raised the dispute. Sri K. Thirupathi is a member of their union. He knows that Thirupathi has raised an industrial dispute ID 78/89 before Industrial Tribunal-I, Hyderabad. That the earlier union raised the industrial dispute for his service increments from 1984 and he do not know upto what period. He does not know whether the ID raised by the previous union was dismissed. It is true that Thirupathi was declared fit by Medical Board on 30-10-84 for shotfirer 'C' grade. It is correct that Thirupathi gave an application dated 3-10-87 wherein he has admitted that he was appointed as Chit Issuer vide Ex.M1 at his request. As per the request he was given again Shotfirer 'C' Grade. On the salary of Rs. 1222 basic pay. He denied that on 1-2-89 his basic pay was Rs. 3010. He agreed that after 10 years of service he was upgraded to 'B' Grade. That he is drawing Rs. 4048 from 1-4-88. That at the time of accident his basic was Rs. 1062.

9. The Management examined Sri K.B.S. Sagar, Deputy Personal Manager ia MW1 who deposed the said facts. That the Tribunal dismissed the dispute. In the cross examination he deposed that the Petitioner sustained injuries on duty. In the course of employment if an employee himself meets with a major accident he will be given usual increments and attendant benefits. On the dat of his accident his basic pay was Rs. 1062 and not Rs. 625. It is true that the basic scale of Sri K. Thirupathi was reduced to Rs. 1062 to Rs. 625. That at his own request he was appointed as Chit Issuer. During the period of December, 1985 to January, 1988 he was given annual increments of Grade 'E' but not Grade 'C'.

10. It is argued by the Learned Counsel for the Petitioner that the delinquent employee was appointed in the Respondent Company as General Mazdoor on 28-12-73 and the delinquent employee after due selection process for the post of shotfirer Grade-C. That he was continuously discharging his duties and drawing pay of Rs. 1062 in 1984. That on 6-1-84 while discharging his duties he involved in a serious mine accident and got seriously injure. The Petitioner submitted that delinquent employee is admitted in the Company's Hospital and he was given treatment for 10 months as inpatient i.e., from 6-1-84 to 30-10-84.

11. That the employee was declared as fit by the Doctor of the Company's hospital. But still he was not completely recovered. Therefore, he made representation on 2-12-85 to provide him suitable job and the Respondent Management transferred him to Madaram Dispensary providing him suitable surface job as Chit Issuer. The pay was reduced from Rs. 1062 to Rs. 625 which amounts to unfair labour practice. The Petitioner/workman submits that as per the Hon'ble Supreme Court judgement in *Narendrakumar Chandla Vs. State of Haryana and others* 1994 (68) FLR page 942 it was held that if an employee unable to perform his duties due to the accident arising out of employment his last drawn pay was protected. That he was not given any service benefits and not given annual increments from 1984—88 which is unjust and contrary to law. That as per the Hon'ble Supreme Court Judgement in *Kunal Singh Vs. Union of India* and another, it was held that if an employee has acquired any sort of disability during his service and if found not suitable for the post he was holding, he could be shifted to some other post with same pay scale and all service benefits must be protected. The Petitioner submits that the respondent has not granted the service benefits and also not given the annual increments to the delinquent employee which is illegal, unjust and contrary to law. That as per Ex. W4 the colliery manager has proposed to prepare the basic fixation which clearly establishes that the delinquent employee was not given benefits which he is entitled as per law. That the said document's contents are not disputed by the Respondent. Ex. W6 is the document which shows that the delinquent was fixed in the basic scale of Rs. 742-40-1062-45-1422 but not as mentioned in the counter. Ex. W7 establishes that he was not given annual increments. That Ex. M7A is the document and it is containing certain manipulations made with red ink. It does not contain any correction by auditor nor any of the concerned officials. The said documents clearly establishes that the Petitioner was not granted annual increments.

12. That reference made in ID. 78/89 is pertaining to 8 national increments w.e.f. 9-5-85 till 1989, but the present LCID No. 4/2002 is pertaining to the annual increments denial to Kalagura Thirupathi. There is no similarity in both



the references. It does not act as res judicata. Hence, the petition may be allowed.

13. It is argued by the Learned Counsel for the Respondent that the matter has already been settled by ID 78/89 and the same matter cannot be repeated again. He relies on the Judgement of the Hon'ble Supreme Court in *Workmen of Straw Board Manufacturing Co.Ltd., Vs. Straw Board manufacturing Co. Ltd.* 1974 1 LLJ 499 wherein it was held that, "...Echoing the voice of *Burn & Co.*, that the principle analogous to res judicata will apply to the decisions of the Industrial adjudicators with respect to the awards which are not based on prevailing circumstances, the court reasoned that "multiplicity of litigation and agitation and reagitation of the same dispute at issue between the same employer and his employees will not be conducive to industrial peace which is the principle object of all labour legislations bearing on industrial adjudication". He also relies on the Judgement of the Kolkata High Court in *Sankar Prasad Banerjee Vs. Central Government cum Labour Court* 1975 1 LLJ 71 (Cal) Division Bench, where in it was held that, "The principle of res judicata would be normally applicable to industrial adjudications or wards as industrial settlements are intended, consistent with the policy of Industrial Disputes Act, 1947, to be operative for a fairly long period unless there is change of circumstances which may be the basis of the award. In cases where the award is based on prevailing circumstances like determination of wage structure and the like on existing price index, with the constant change of circumstances like spiraling of prices, the principle of res judicata would be inappropriate and inapplicable. Such principles would however be applicable when the award is not based on prevailing circumstances but on rights claimed long existing but found by the Labour Court as non-existent and there is no scope for any change of the rights or in the claim of the workmen on the employer by reason of change of circumstances. In this state of affairs there can be no dispute that in such cases, the principles of res judicata will have full application". So it has to be concluded that the principles of res judicata would be applicable.

14. He further argues that the further contention that the Management of Singareni Collieries Co. Ltd., has not given any annual increments from 1984 to till date is not true and correct and the claimant is put to strict proof of the same. That from 1989 onwards his basic pay is regularly increased so far as 1985 to 1988 is concerned, it was at his request, although he was declared medically fit that he was posted at Madaram Dispensary. Hence, he prays that the petition may be dismissed.

15. It may be seen that no judgements are needed to show that the pay has to be protected once, the employee meets with an accident when serving the Company. Here, the said fact is not denied that almost for 10 months he was inpatient, but he was declared medically fit after 10 months. So actually he should have gone to work as shotfirer being

posted on surface as Chit Issure. Should the salary be protected? If so, whether the Judgement in ID 78/1989 rendered by the Industrial Tribunal-I, on 10-2-1994 is res judicata. The said reference reads thus, which is marked as Ex.M2, after one goes through Ex.M2 in detail one finds all these facts mentioned therein that he should have been given 10 increments while fixing in the Chit Issuer instead of Rs. 625. Personally I am of the opinion that although he was declared fit as shotfirer yet, when the company gives him a surface job, the pay ought to have been protected. But as my Learned Counsel Brother has already decided that he is not entitled for the said relief no writ having been filed against if, the order has become final and I am afraid that I cannot be called upon to reddecide the same issue once again as it amounts to res judicata. But there is one difference. Here it is contended that there is no annual increment which is granted to the Petitioner from 30-10-84 and whereas WW1 has denied that he has been given regular increments. It may be seen that as per Ex.M1 the Petitioner himself has come up with an application that he was appointed on reduced grade at his request as Chit Issuer as he was not now willing to work as shotfirer. So there is no question of granting increments as shotfirer for the period 1984—88 if any increments he should have got in the grade of Chit Issuer which has already been decided by my Learned Brother and I cannot now decide. Next question is whether he has been granted increments from the date again he was posted as shot firer i.e, after being posted agains as such on 18-1-88 or not. He has been granted such increments is clear from the fact that he himself has filed pay slip for the month of September, 2002 he has drawn total pay of Rs. 7780/- and his basic pay is Rs. 5780. So it may be seen that his contention that he is not being granted after re-joining is wrong. Further it is clear from Ex.M6 and M7 he was granted regular increments. Therefore I cannot decide the question already decided by my Learned Counsel Brother in ID 78/89 and as he is being granted increments regularly after again joining as shotfirer, I am of the opinion that he is not entitled for any relief. The reference is answered accordingly, "The action of the Management in denying annual increments to Sri K. Thirupathi, Shotfirer from 30-10-84 (in the scale of Shotfirer Grade-C) to till he joined in 1988 is justified. The workman is not entitled for any further relief because he is not only being given annual increments but also he has been upgraded to Grade 'B' on completion of 10 years of service and it is admitted by no other than the WW1, the Vice President of the Union who has espoused the cause of the Petitioner. Hence, he is not entitled for any relief.

Award passed accordingly. Transmit.

Dictated to Kum. K Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 25th day of June, 2004.

E. ISMAIL, Presiding Officer

## Appendix of evidence

नई दिल्ली, 4 अगस्त, 2004

**Witnesses examined for the Petitioner:**      **Witnesses examined for the Respondent:**

WW1: Sri K. Rajaiah

MW1: Sri K. B. S. Sagar

**Documents marked for the Petitioner**

Ex. W1: Copy of O. O. No. PO/BPA/SF/4/23/dt. 31-12-80

Ex. W2: Copy of Ir. No. AHB/15/87/3784 dt. 7-11-87

Ex. W3: Copy of O. O. No. P. BPA/SF-OCP/154 dt. 18-1-88

Ex. W4: Copy of basic fixation proposal i.r.o. the Petitioner, w.e.f. 20-1-1988

Ex. W5: Copy of O. O. No. P. BPA/138-E/221/4673 dt. 9-12-85

Ex. W6: Copy of O. O. No. P. BPA/138-SFC/2830 dt. 20-7-88

Ex. W7: Copy of Ir. No. MVK. 1-9-88/1083 DT. 2-2-91

**Documents Marked for the Respondent**

Ex. W1: Copy of representation of workman dt. 3-10-87

Ex. W2: Copy of Award in ID 78/1989

Ex. W3: Copy of Office Order dt. 9-12-85

Ex. W4: Copy of O. O. No. P. BPA/SF-OCP/154 dt. 18-1-88

Ex. W5: Copy of Order No. AGM/BPA/33A/295 dt. 11-7-77

Ex. W6: Copy of O. O. No. P.(PM)4/5147/598 dt. 2-5-2000

Ex. W7: Copy of orders reg. annual increments (3 pages)

Ex. W7A: Original of Ex. M7

**का.आ. 2075.**—कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा-1 की उपधारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 सितम्बर, 2004 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (अतः-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

"जिला कोषिकोड के कोयलांडी तालुक में चेमनचेरी के अधीन आने वाले क्षेत्र"

[सं० एस-38013/55/2004-एस एस-1]

के. सी. जैन, निदेशक

New Delhi, the 4th August, 2004

**S.O. 2075.**—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st Sept, 2004 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter V and VI (except Sub-section (1) Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Kerala namely:—

"Chemancherry in Quilandi Taluk in Kozhikode District."

[No. S-38013/55/2004-SS-I]

K. C. JAIN, Director